

April 2015 – Final Report

Ukraine and the EU:
Overcoming criminal
exploitation toward a
modern democracy ?





Ukraine and the EU: Overcoming criminal exploitation toward a modern democracy?

ACKNOWLEDGEMENT

This report has been produced with the help of the University Observatory of Security of the University of Geneva, the Terrorism, Transnational Crime and Corruption Center (TRACCC), and the Basel Institute on Governance.

RESEARCH

OCO would like to thank Prof. Louise I. Shelley, Prof. Judith Deane, Prof. Alexander Kupatadze, M. Pierre Memheld, M. Joel Pastre, Dr. Pedro Gomez Pereira, Dr. Selvan Lehmann, and all the officials, former and current, from the institutions of the Republic of Ukraine for the information and documentation his offices provided yet. Special thanks also goes to our institutional partners from the EU and Switzerland that have helped to turn this project real.

DISCLAIMER

This report does not reflect the position of the Global Studies Institute of the University of Geneva nor the Observatory on Security and neither does it imply any form of endorsement.

Website : www.o-c-o.net

Table of Contents

The Organized Crime Observatory.....	6
OCO structure.....	6
What we do	7
Why research the situation in Ukraine?	7
Acknowledgment.....	8
Methodology validation	10
Key findings.....	15
1- The international regulation framework	17
2- Deficiencies observed.....	19
3- 2014 anti-corruption laws and regulations	20
4- Ukraine and the UE.....	23
History of organized crime in Ukraine	26
1- The Soviet Legacy	27
2- The Independence	28
3- Ukraine's Inheritance.....	30
Trends of Organized Crime in Ukraine	33
1- Trends in illegal activities.....	35
1.1 General statistics.....	36
1.2 Narcotics.....	37
1.3. Counterfeiting and illicit goods trafficking.....	38
1.4. Tobacco	40
1.5. Human trafficking.....	41
1.6. Contract killing.....	42
1.7. Cybercrime.....	43
1.8. Corporate raiding	43
1.9. Weapons trading.....	44
2- Business, politics, clans and OC: a historical perspective	46
2.1 Public corruption.....	50
2.1.1. Public agent corruption in Ukraine	50
2.1.2. Relevant and high-profile corruption criminal cases.....	51
2.1.3. Government responses.....	54
2.1.4. State of combating organized crime and corruption in 2013.....	55
2.2 Political Leaders, Oligarchs and Organized Crime	57
2.2.1. The Lazarenko case	57
2.3 The Energy Sector in Ukraine	61
2.3.1. Ukraine energy policy and private profits	61
2.3.2. "The Family" influence in the sector	62
2.4 Corporate Raiding.....	64
2.4.1. Raiding and the Media.....	65
2.4.2. The KRIVORSTHAL case.....	65
2.4.2. The SWISSPORT case.....	66
2.4.3. The KREMENCHUG/TATNEFT case	66
2.5 After the Maidan and the Spoils of War	68
2.5.1. The lustration process and derivative.....	68
2.5.2. Defense money and contracting.....	73
2.5.3. Will the disappeared money ever be recovered?.....	74
The Ukraine's Oligarchic Structure.....	81
1- Geography of wealth.....	81
1.1 Eastern Ukraine: The Extractive and Productive Sectors.....	82



1.2 The Black Sea Region: Shipping, Transport and (Illicit) Trade.....	82
1.3 Kyiv and its Environs.....	82
1.4 Eastern Ukraine: The Donetsk and Dnepropetrovsk Clans.....	83
1.5 Economical indicators.....	83
1.5.1. The EU DCFTA ?	84
1.5.2. The major economic indicators.....	86
1.5.3. The infrastructure and repartition of wealth.....	93
2- The Who's Who of Ukraine's Oligarchy.....	96
2.1 Eastern Ukraine: The "Donetsk Group"	97
2.1.1. Rinat Akhmetov: System Capital Management.....	97
2.1.2. Vitaly Haiduk and Sergei Taruta: Industrial Union of Donbas (ISD).....	97
2.1.3. Viktor Nusenkis: Energo/Donetskstal Group	98
2.2 Eastern Ukraine: The "Dnepropetrovsk Group"	100
2.2.1. Viktor Pinchuk: Interpipe Group.....	100
2.2.2. Igor Kolomoysky & Gennady Bogolyubov: Privat Group.....	101
2.3 The Kyiv Group	102
2.3.1. Kostyantyn Zhevago: Finance and Credit Bank/Ferrexpo	102
2.3.2. Dmitry Firtash: RUE/DF Group/Crimea Titan.....	103
2.3.3. Petro Poroshenko: Oligarch of Kyiv and the Black Sea Region.....	107
2.3.4. The Surkis brothers: UEFA, Kuchma and the "Kiev Seven"	109
Conclusion and Proposals	114
1- Overcoming the criminal structures?.....	115
2- Restoring Justice and State legitimacy?	119
3- Model building.....	123
4- Restoring peace.....	124
5- Transition agenda	126
5.1. The Institutions, the State.....	127
5.2. The Justice and Law enforcement.....	129
5.3. The Police and Law enforcement.....	131
5.4. Tenders, public procurements and State's money spendings	132
6- Building a new Ukraine?	134
Appendixes	136
1- The public corruption in recent past : Lazarenko and Tymoshenko case	137
2- Corporate Raiding in the media in recent past: the TVi saga case.....	152
3- Corporate Raiding in the services in recent past: the SWISSPORT case	154
4- Information and analytical information detailing the state of combat toward organized crime and corruption in 2013.....	159
5- Ukrainian Organized Crime Groups: A Behavioral Model	164
6- In the Tentacles of Corporate Raiding: Benia, Judges, Kiperman and Others	171
7- State of combating organized crime and corruption in 2012	180
8- Relevant and high-profile corruption criminal cases (proceedings).....	183

The Organized Crime Observatory



The Organized Crime Observatory

OCO is a Swiss based association (NGO) founded in 2001. Its goals are to promote the understanding of structured criminal behaviors, patterns, and facts to educate specialists, including law enforcement agencies and officers, and also the public on criminal trends through education, training, political engagement and public information campaigns. It also helps active participants in the fight against organized crime to communicate more effectively by building trust and secure channels of engagement. With more than 250 experts worldwide, OCO believes that organized crime is a danger to the security of democracy, privacy, and freedom around the world and must be addressed as a global problem through worldwide networking and the exchange of information.

Since its constitution, the OCO have issued different reports (terror network and supports in Switzerland (2001), Argentina Parliamentary Commission on Money Laundering (2002), and organized different international events (Brasilia, 2003, UN-Geneva 2005). OCO is actively involved into Swiss, UE and UN training structures on anti-corruption and anti-money laundering, and regularly works with international and national police institutions worldwide. OCO was awarded the Medal of Merit of the Brazilian Magistrature and DF for its role on countering organized crime in Brazil in 2003.

OCO structure

The OCO association's structure is as simple as possible. Considering that all members are distributed around the planet, it is very difficult for all to meet in one single place.

Thus, the OCO's structure responds to:

- The GENERAL ASSEMBLY which is the highest decisional level and which regroupes all members.
- The EXECUTIVE COMMITTEE which manages the current affairs for the association and which is elected by the General Assembly.
- The BOARDS are specific groups of members that are created to manage a specific topic, event, publication, project etc.

- The PARTNERS are formally out of the structure but are constantly involved in the different projects of the OCO.

What we do

The review of published press is an ongoing enterprise for the Association which, in time, will turn it into a real observatory of transnational crime facts around the planet. News information is gathered through the use of selected keywords in French, English, Italian and Spanish. Together with its partners, the OCO's events and information aim to make sense of the threats used by criminal networks and organizations to abuse corporate and civil society.

The Association publishes a newsletter for its members with no time-string. This newsletter is made available in the news' original language. The main objective of such a newsletter is to maintain and develop a regular contact between all members. The OCO Association publishes, alone or together with partners, some special reports regarding specific topics in organized crime and other criminal networks. These special reports will present a particular situation in a precise and documented way, improving information and transparency.

Why research the situation in Ukraine?

For many years, OCO members and partners have acknowledged that organized crime structures, supported by active institutional corruption, are a major problem for many nations and for democracy itself. The integration of several Eastern European and former communist countries into the European Union has revealed sometimes their failure in correctly addressing the challenges posed by organized crime structures.

As a result, many organized crime groups have benefited both economically and politically from the entry of their country into the European Union, weakening the institutions of their own country and introducing criminal behaviors to the very heart of European institutions. Whilst observing this for many years, OCO has been considering a research project to test various methodologies of assessing the impact of two key areas that may jeopardize the integrity of state institutions and harm European institutions, also: public corruption and organized crime.



The goal of our work is to offer a proper methodology that helps institutions to avoid pitfalls and to build proper assessment models in order to drive policies based on real information. Kneejerk political reaction is no longer an option when dealing with countries in today's world. We want to offer a vehicle, in our specialized field, to enable more effective and informed policy makers. This is, after all, the role of NGOs like us and also of the media.

Initially we considered targeting Eastern European countries that are already included in the European Union - countries such as Bulgaria, Romania or Poland. But conducting such a research project on such a large scale requires extensive resources, funding, and access to the proper information. After two years of intense lobbying, we managed to secure the resources to focus on Ukraine, a country engaged in relationships with the European Union for years that is taking steps toward a stronger engagement in a difficult political environment.

Private donors who all have interests in the development of the European Union both in terms of economics, stability, and democracy and who believe that Europe has a bright future if managed wisely, fund this research. Although the funding level is relatively small we are fortunate that the budget is supplemented by the dedication and the passion of our research teams and partners. We would like to express our gratitude to our donors who at this stage wish to remain anonymous.

But money is not the only issue: authorized access to government documents also proves challenging. We have been granted access by the Ukrainian authorities to information and documentation of which we were surprised to receive in a spirit of co-operation. We also want to express our gratitude for the effective collaboration of the Ukrainian authorities, mainly the office of the General Prosecutor that has already helped us to gather a huge amount of valuable and up-to-date information and documentation.

Acknowledgment

Because of the complexity of the project, we have entered into partnerships with other institutions. We'd like to thank here the Terrorism and Transnational Crime and Corruption Center (TRACCC) in Washington, its Director Prof. Louise I. Shelley and her team for the quality of their work and their dedication, and the Basel Institute on Governance, along with M. Pedro Gomes Pereira and his team.

The scope of our work is to assess organized crime and public corruption in Ukraine today. This means validating assessment methodologies that eventually can be used for other situations in other countries. Despite the particular situation in Ukraine today, we believe that an assessment using the correct methodology could be conducted in every state.

Today, only Italy provides quality data and analysis on these topics, mostly because Italy is not only the home of the Mafia, but also of the Antimafia. A lot remains to be implemented at the European level to provide proper information and understanding concerning the topic of organized crime and corruption and thus, a lot is also left to design and enforce the adequate responses and policies to fight these challenges to democracy.

The key findings we present today result from 1 year and 5 months of research work, from September 2013 to January 2014. Four research teams have been working since mid-September 2013: two in Switzerland, one in the United States and one in France, all communicating to the proper correspondent in Ukraine, between state institutions, NGOs, and university fellows. We have been so far able to retrieve a massive volume of documentation about the topics, both in Ukraine, thanks to the collaboration with the authorities, and abroad.

As the World knows, the situation has dramatically changed in Ukraine during the research period. From November 2013 to February 2014, the protesters of EuroMaïdan have been organizing massive protests, first in Kiev, then in all the main cities of the country. Today, with a little more than a year in distance, analysts agree on the principal motivation of these protests: corruption. In this perspective, the movement toward the EU was seen as the unique chance for the populations to enhance their quality of living by combating more effectively against corruption, organized crime, and arbitrary. Then President Yanukovich was ousted and fled to Russia, leaving the entire country in an indescribable state of anarchy. Probably because of the sudden power vacuum, the other power groups, oligarchs, paramilitary forces, etc., became caught in a power struggle. Soon, Yulia Tymochenko was released and her allies MM. Turchenov and Yatseniuk became respectively President ad-interim and Prime Minister ad-Interim, with however the members of Parliament remaining unchanged from before the EuroMaïdan.

Tragedies were witnessed in Kiev and Odessa and in light of it, the eastern cities of Ukraine, especially Donetsk, Luhansk and Kharkhiv started to welcome anti-Kiev demonstrators and protesters. In the meantime, Russia annexed the Crimean peninsula and faced international sanctions.

In May 2014, a Presidential election was organized and brought into power the current President of Ukraine, M. Petro Poroshenko. In the summer of



2014, the protestations of the population of eastern Ukraine against Kiev escalated into a civil war, which still continues today.

Today, Ukraine remains a country at war, with a very unstable economy. The currency has taken a plunge, the population is submitted to hard pressure, and the eastern part of the country is a *de facto* war zone. Gathering material relevant for our study during these tragic events was an extremely difficult task.

We have focused our analysis mostly by explaining the dynamics of structured crime activities and by bringing cases supported with, when available, proper and confirmed documentation such as judicial, governmental (from different countries), economical, and banking documentation; but also, especially after February 2014, reports from NGOs, cross controlled news, etc.

The quality of the documentation we have worked on contains particular legal cases, statistics, interviews, and qualitative material, but also trade and economic information. Obviously, we have only analyzed a limited amount to date, focusing on the main topics that will be presented here.

However, given the massive amount of reports, counter reports, and a massive communication manipulation in the medias and NGOs from all sides and all parties of the conflict raging in Ukraine, it has become more and more difficult to work with such material. Indeed, because we couldn't verify all the single events in the country within a calendar year by cross-checking contents, sources, medias and authors, we have instead been focusing on specific topics mostly regarding the criminal exploitation of the war situation and the regime change in an attempt to outline the criminal problems of the country in three very different situations: stability, war and regime change.

Our goal and our conclusion will mostly regard the fact that democracy cannot be "imposed" from outside, and that crime without control can lead an entire geographical zone and a massive population to a disaster of war, hate and cruelty, scratching to the end the fine glaze of civilization humanity has taken over centuries to build.

Methodology validation

The Organized Crime Observatory (OCO), a Swiss-based NGO, is undertaking a comprehensive assessment of organized crime and public corruption in Ukraine. The objective of this research project is to validate a methodology of assessing the impact of corruption and organized crime within

a country and its institutions in order to provide fact-based evidence and analysis for policy makers.

The base of any methodology is first to define the subject of the research.

Focusing on organized crime and public corruption, we will examine the following areas:

1. Organized crime
2. Illegal activities (such as trafficking in narcotics, human beings, counterfeiting, piracy/cybercrime, racketeering/extortion, contract killing etc.)
3. Corruption of public agents (both passive and active) and bribery
4. Abuse in office and/or frauds committed by public servants
5. Corporate crime such as raiding and other economic forms of crime
6. Criminal-legal interactions and outcomes

The first step is to identify indicators that will bring information surrounding each of these areas; and as we deal with criminal activities, the first step is also to check which of these areas are covered by the country's regulatory framework, mainly the criminal code. If yes, then one analyzes the way that each offence is defined and understood. In the case that one or more area is not covered by institutional attention, one undergoes a field data collection in order to assess the existence and eventually the extent and details of the researched topic.

Fortunately, our first study of the Ukrainian criminal and civil codes shows that all of these offences are recognized in the Ukrainian criminal code and Ukraine itself is part of numerous initiatives against corruption and organized crime (OECD, Council of Europe, EU, and UN).

This situation brought us to our second methodological step. On one hand, we had to analyze the wording and comprehension of the specific topics themselves both by Ukrainian legislators and Ukrainian law enforcement. But on the other hand, this allowed us to consider the crime statistics.

The classical methodology on crime assessment is to start from the larger point of view and focus on points of interest, ours being organized crime and public corruption. This means going from the quantitative to the qualitative.

In the case of Ukraine, the classical methodology is not entirely valid. Statistics made public by the Ministry of Interior do not reflect the proper situation. Some are very detailed (organized crime statistics), some are confused (corporate fraud, extortion or raiding), and some seem to be forgotten (racketeering) or largely underestimated (cybercrime, counterfeiting,



corporate raiding, environmental crime). One part of our work is then to see if reconciliation is possible between the common denominator of our topics of interest and those specifically of the Ukraine.

Some underestimation comes from the Ukrainian agencies themselves. In the case of counterfeiting for example: the Ukrainian agency SAUMP declared in 2013 to have discovered and seized 3.9 million packages of counterfeited product only in the Kiev oblast - but this is not referred to in the statistics.

The same problem appears while reporting cybercrime activities. The special agency of the Ministry of Interior declared in 2012 that more than 2000 cases have been discovered but are not being reported in the official statistics.

The problem (as we also outlined 10 years ago in Switzerland) is not the fact that these topics are not considered by the agencies. It lies instead in the sharing of data and their integration in statistics. This is one of the greatest vulnerabilities in every country's policy on organized crime and corruption.

For this reason, we have also had to consider alternative methodologies. One of these is the presence and the extent of racketeering activities. This has been touted as a major indicator of the presence of organized crime in the first all-European study on organized crime realized between 2010 and 2014 by the TRANSCRIME laboratory of the Universities of Milano and Trento¹. We are effectively gathering information about these kinds of activities even where they are reported under different names and labels, such as extortion, raiding, corporate extortion etc.

In order to gain the clearest image of the country's situation, the best way is to ensure that data gathering will be as broad as possible. Then, it is to ensure a constant review between quantitative data and qualitative data, between sources of information, which are mainly criminal investigation and prosecution agencies and specialist NGOs, and also qualitative sources (state officials, police forces, NGOs and study centers).

This aim brought us the possibility of having access to the General Prosecutor's Office of Ukraine in Kiev in November 2013. We also shall assess the internal organization between the different authorities that were involved in the countering of all the different aspects of what we were looking for, i.e. corruption, organized crime, and different types of crime (racketeering, raiding, narcotics, environmental crime, cybercrime, etc).

In this way, our methodology can ensure the analysis of the impact of such practices upon the policy decision making at all levels.

¹ <http://www.ocportfolio.eu/>

Obviously, the situation has greatly changed between November 2013 and early 2015. The former regime has been ousted, with the new regime put into place through a Presidential election (May 2014) and a parliamentary election (November 2014). Meanwhile, a civil war has embroiled the eastern part of the country since July 2013. Our findings and data do not entirely reflect the current situation, about which we do hold only a few documents, mostly targeting the former president's person and team.

We had a long reflection about the pertinence to continue this report among the OCO staff and given the chaotic situation in the country, the large amounts of money, technical and human assistance, that are delivered by western countries to Ukraine, and the current level of corruption, violence and administrative chaos, we reached the conclusion that this report can bring some information that can be useful during this standpoint in time which policy makers, from any country, can rely on for organizing further judicial, political and anti-criminal policies and administration.

This paper uses the *UN Convention against Transnational Organized Crime* definition of organized crime/organized criminal group as “a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offenses.... in order to obtain, directly or indirectly, a financial or other material benefit.” We use Roy Godson’s definition of “political-criminal nexus” as “the relationships of varying degrees of cooperation among the political establishment and the criminal underworld at the local, national, and trans-national levels.” And we use the term “oligarch,” popularized by Olga Kryshchanovskaya, to refer to the small group of billionaires and multimillionaires who, along with their associated “clans,” currently control over 40% of Ukraine’s wealth and dominate the country’s political decision-making.

Roy Godson, ed. *Menace to Society: Political Criminal Collaboration Around the World*, Transaction Publishers, New Brunswick, 2003, p.4



A- Key findings

Key findings

Ukraine has been regarded as one of the most corrupt countries in the world, but to what extent? How is corruption organized in the country? How does corruption influence its institutions' choices and decision-making processes? Similarly, to what extent does organized crime interact with the state's activities?

The fact that organized crime has a strong presence in Ukraine is common knowledge, but to what extent? What form do illegal activities take in the country today, how are these activities and actors' structured, and what is their impact on institutions? How is Ukraine responding to these challenges?

Ukraine has signed up to many European, OECD and UN conventions and agreements on these topics. How does it comply with its obligations under these agreements? To what extent? What are the challenges Ukraine's institutions are facing in the compliance processes?

All these questions need to be answered in order to design and enforce proper policies that will respect the integrities of European institutions and their legal framework. The new policies will also facilitate the development of the Ukrainian institutions themselves in terms of understanding how to deal with the threats posed by public corruption and organized crime.

We can summarize our report in five six findings:

- 1) Before the Revolution, Ukraine seemed to no longer be, as it has been often described, the "country of organized crime". For many reasons, the influence of organized crime groups had strongly decreased while still remaining preminent. Obviously, the situation with the Civil War greatly changed the reorganization of such criminal groups, with the majority of them becoming "integrated" into the law enforcement and administrative structures at strategic points such as ports, refineries, industrial storage facilities, etc.
- 2) Public corruption and conflicts of interest have remained a significant problem for Ukraine, then and now. Any party engaging with Ukraine will have to interact with groups that are linked to oligarchic structures. If we observed a trend to a stronger verticalization of power driven by the former President Yanukovitch, the public corruption would have gone completely out of control after the collapse of the former regime. Concerns are also more and more important and are publicly expressed by institutions regarding the army and the defense groups active in the Civil War fronts.



- 3) One of the most lucrative activities in Ukraine, since its constitution until now, public money has been a major source of the oligarchic wealth accumulated through its direct and indirect harnessing, through the tenders, biddings, tax collection (included the VAT collection) and currency issuance (mostly through banking activities). To this extent, the situation has only changed in that the money which now falls into this category does not come from the Ukrainian industries and services anymore, but more and more from foreign help: first it was coming from Russia, now it's coming from the EU, the US, and the international organizations such as the International Monetary Fund, the World Bank, the EBRD, or the multilateral financial aids.
- 4) Illegal activities and trafficking continue to operate at a high level in Ukraine. Some of these activities have existed for many years, including trafficking in human beings and narcotics. Others such as corporate raiding and corporate fraud are relatively new developments in the country. The collapse of the institutions from May-June 2014 since now have boosted and diversified the traffics not only in criminalized goods but also in basic consumption goods.
- 5) Counterfeiting and cyber security were the two major causes of concern for the Ukrainian law enforcement agencies over the past few years, especially in the light of pressures extending from European countries and the US. We observed an increase of such activities with some strong international presence. There are no data regarding any increase or decrease of these activities since the revolution in early 2014.
- 6) Ukraine had made great efforts to join and comply with European and international conventions and efforts to combat organized crime, corruption, and other illegal activities. However, according to EU agencies, these initiatives face tough challenges toward a correct and successful implementation. The situation is pretty much the same today. The financing promised by the different financial partners of Ukraine, such as the EU, the Council of Europe, the WMF, or the WB are all putting as a condition a drastic enhancement in the struggle against corruption to release further financial helps; but the laws are still on hold, and nothing has really changed.

1- The international regulation framework

Successive Ukrainian governments have made political declarations and have introduced measures designed to address corruption. After his election in 2010, President Victor Yanukovitch created the National Anti-Corruption Committee (NAC), which was a consultative and advisory body to the head of state. Similarly, the Ukrainian Parliament in domestic reform programs – such as in the “Stability and Reforms” program – stated among its core objectives to reinforce the fight against corruption (2010).² Recently, two strategies were approved: the National Anti-corruption Strategy for 2011-2015 and the State Program for Prevention and Combating Corruption for the Period of 2011-2015.

On its international commitments, Ukraine ratified the United Nations Convention against Transnational Organized Crime (UNTOC) in 2004 and the United Nations Conventions Against Corruption (UNCAC) in 2009 as well as the Council of Europe (CoE) Civil Law (in 2005) and Criminal Law (in 2009) Conventions on Corruption. In addition it has become a member of the CoE's Group of States Against Corruption (GRECO) in 2006. Since then, Ukraine has made significant efforts to address the legal provisions demanded by the CoE.

On the 15th of January 2015, the High Representative of the UE for Foreign Affairs and Security Policy F. Mogherini addressed again the necessity for the Ukrainian government to strengthen the policies that “are aimed at rooting out corruption and promoting change in the constitutional, legal, electoral spheres and energy sector”³. The western financial partners of Ukraine have always pointed out that any financial aid will be conditioned to effective policies against corruption.

In 2012, the Criminal Code was reviewed in close consultation with the CoE and, in April 2011, the Parliament of Ukraine adopted the Law “On Principles of Preventing and Counteracting Corruption” (Anti-corruption law) and the Law “On Amending Certain Legislative Acts of Ukraine Pertaining to Liability for Corruptive Offences” that came into force in January 2012. Additionally, the Law on Amendments to Certain Legislative Acts of Ukraine was passed in May 2013, which allows the criminal prosecution of legal entities.

² OECD (2013), *Anti-corruption Reforms in Eastern Europe and Central Asia: Progress and Challenges, 2009-2013*, Fighting Corruption in Eastern Europe and Central Asia, OECD Publishing,

³

http://www.ukrinform.ua/eng/news/mogherini_the_eu_aims_to_strengthen_cooperation_with_ukraine_328370



As a result, progress was also achieved in combating money laundering and the financing of terrorism in the criminal code.⁴ In August 2010, the Law on Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime or Terrorist Financing came into force and has been subsequently amended in order to bring the national framework in line with the FATF recommendations.⁵

⁴ Ukraine introduced amendments to the Criminal Code, in particular as regards article 209 (Money laundering), and articles 258-3 and 258-4 (specific terrorist acts) and introduced a new article 258-5 (terrorist financing) and to the Law of Ukraine on Combating Terrorism; adopted on 18 May 2010 the Law No. 2258-VI on Prevention and Counteraction to Legalisation (Laundering) of the Proceeds from Crime or Terrorist Financing (hereinafter the AML/CFT Law) which entered into force on 21 August 2010.

⁵ European Commission, Implementation of the European Neighbourhood Policy in Ukraine Progress in 2012 and recommendations for action, 2013 (hereinafter “EC 2012 Progress Report in Ukraine”)

2- Deficiencies observed

While significant efforts have been made to initiate anti-corruption strategies and enacting new laws to prevent and combat serious, financial and organized crime in Ukraine, several provisions are ambiguous and do not fully comply with the requirements of the international standards Ukraine has an obligation to adopt. The GRECO has issued important recommendations to the country, to which proper follow-up or implementation has not yet been given or is unclear.

Only fourteen out of twenty-five recommendations have been implemented satisfactorily as of March 2013.⁶ For example, the designation of an independent anti-corruption body to implement and monitor the Anti-Corruption Strategy has not been decided yet. According to GRECO, the NAC is not considered fully independent in its monitoring function and its composition remains unclear or is undergoing constant amendments.

The NAC also lacks proper involvement of civil society. Furthermore, GRECO expressed concern regarding the independence of the prosecutor's office and states that current reforms in this regard are not sufficient to fulfill the core objectives of its recommendations.⁷

Moreover, neither the Anti-Corruption Law nor the Criminal Code establishes liability of the officers and employees of the company for corruption offences committed by agents and other third parties.⁸ Ukraine's anti-corruption framework provides in some cases, such as in the criminal liability of legal entities, exceptions to public authorities, local governments, state-owned enterprises, and international organizations thus limiting the ability to fight corruption among government and municipal officials.⁹

This situation has changed during the year 2014 (May and October) with the adoption first of the "lustration laws" that indirectly instigate a responsibility for the public servants toward real or supposed corrupted activities and with the adoption by the new parliament in October 2014 of the set of anti-corruption laws.

⁶ GRECO Joint First and Second Evaluation Round Third Addendum to the Compliance Report on Ukraine 2013 (hereinafter "GRECO Compliance Report 2013")

⁷ GRECO Compliance Report 2013

⁸ Expert Guide: Fraud & Whith Collar Crime 2013, *Ukrainian Anti-Corruption Legal Framework: Specifics & New Legislation*: <http://www.corporativewire.com/guide.html?id=expert-guide-fraud-and-white-collar-crime-2013>, accessed: 19 October 2013

⁹ Library of Congress – Global Legal Monitor, 24 June 2013 : http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205403620_text, accessed: 18 October 2013

3- 2014 anti-corruption laws and regulations

On the 14th of October 2014, the Ukrainian Parliament, the Rada, approved a set of five anti-corruption laws regarding:

- 1) The reformulation of the national Anti-Corruption Law,
- 2) The Law on the System of Specially Authorized Anti-corruption Agencies (the establishing of a National Anti-Corruption Bureau of Ukraine),
- 3) The Law on the Prevention and the Fighting against Money Laundering, the Financing of Terrorism and the Spread of Weapons of Mass Destruction,
- 4) The law on Amending Certain Normative Acts in Respect to the Ultimate Beneficiaries of Legal Entities and Public Persons,
- 5) The Law on Anti-corruption Policy for 2014-2017.

President Poroshenko signed this package on the 23rd of October 2014, five days later.

In detail, the Anti-Corruption Law establishes the legal framework for the anti-corruption policy in Ukraine, including a preventive anti-corruption toolkit and some rules on how to eliminate corruption and other related offences, mostly targeted on public corruption.

It also includes the creation of the National Anti-Corruption Commission, appointed by the Cabinet of Ministers, that reports to the Parliament with the members of said Commission being appointed for a maximum of two four-year terms.

In addition, the Anti-Corruption laws include specific restrictions with respect to public officials' use of powers, the acceptance of gifts, eventual multiple jobs etc, and set up the procedures for the prevention of the conflicts of interests. The special anti-corruption toolkit includes anti-corruption expertise, special anti-corruption checks, Unified Register of Persons found Guilty of Corruption and Other Related Offences.

The set also establish Rules for ethical behaviors pointing out the priority of the interests, the political neutrality and impartiality and the non-disclosure regulation.

A protection of the whistleblowers from illegal dismissal, job transfer or any kind of material change of labor agreements is also included.

Finally the Anti-corruption law package defines the different types of liability for corruption according to the offence (criminal administrative, civil and disciplinary) and the Right for the State to take actions in order to recover

losses caused by corruption or other related offences. The law also set up the framework for the international collaboration with foreign states and international organizations, which takes measures to prevent and fight corruption.

One of the most controversial elements of the package regards the System of Specially Authorized Anti-Corruption Agencies. This part of the package establishes a system of specially authorized anti-corruption agencies including prosecution agencies, the National Anti-Corruption Bureau of Ukraine, special organized crime departments of the Ministry of Internal Affairs of Ukraine, as well as their legal environment, the liaison processes with other public authorities, and the legal framework of operation of the Anti-Corruption Bureau.

The Anti-Corruption Bureau, considered a public law enforcement agency in itself, is responsible, according to this new law, for preventing, revealing, combating, investigating, and solving corruption offences. The Bureau was expressly created upon an amendment and proposal of the President of Ukraine. The law, but also the debates at the Rada, was raging in order to design the guarantee of independence of its operation, the general structure and the number of employees (up to 300), their remuneration, the main functions rights and their liability, the monitoring processes of the lifestyle of the Bureau's employees, etc.

The Laws regarding the prevention and fighting of Money Laundering, financing of terrorism and spread of weapons of Mass Destruction aim to protect the rights and interests of the citizens and the State, ensure national security through the definition of the legal framework for the prevention of the above mentioned crimes, ensure the creation of a state database aimed at providing Ukrainian and foreign law enforcement agencies with the possibility of revealing, checking and prosecuting offences related to money laundering and other illegal financial transactions. The laws also seek to improve the legislation in the field of financial monitoring, namely by introducing a national risk assessment of the financial monitoring system. It also improves the legal aspects affecting the quality of investigation over the offences related to money laundering, financial monitoring over national public persons, public officials and international organizations.

One of the most interesting points in this part is that Ukrainian law gives foreign agencies the same access and rights to the information national agencies can gather rather than those of Ukrainian national agencies.

The set regarding the Amending Certain Normative Acts with Respect to Ultimate Beneficiaries of Legal Entities and Public Persons establishes the free access to information contained in the State Register of Property Rights to Immovable Property by individuals and legal entities. It also states how such information can be retrieved on-line or in hard paper copies. However, the amendment introducing the applicable laws defining the ultimate beneficiary ownership is still on hold.



As much of the legislation was "copied" on the western countries or imposed by international donors in exchange for financial aid, Ukraine finds itself with two limited national anti-corruption bodies - the National Commission and the National Bureau - which might be difficult to turn in an "on" mode and ensure effectiveness, both in their proper mission and in state agencies' collaboration and partnership.

"The problem may become the very character of the fight against corruption chosen by the Ukrainian authorities, as by creating new official structures, it has become bureaucratic. Another drawback of Ukraine's legislation is the lack of specific mechanisms for winning the systematic anti-corruption battle. The new authorities may not be so many tools in the struggle against corruption as in the struggle for power"¹⁰.

The path will be quite long to have the possibility to assess the effects of the anti-corruption laws package. An accrued monitoring shall keep the pressure on the enforcement of these anti-corruption laws that are in the middle of a struggle between most of the civil and state powers that do not want them to be enforced, and the population, the Maidan activists and the international donors who are urging for results.

¹⁰ <http://www.globalsecurity.org/military/world/ukraine/corruption.htm>

4- Ukraine and the UE

Under the Yanukovitch presidency, we observed a trend toward a verticalization and reinforcement of central power of the state and strategic industries, either directly done by President Yanukovitch team or indirectly by certain oligarchs closely linked to him. They were the drivers and the other clans had to adapt. And this is what they did.

With the EuroMaidan, the ousting of the former President and the Civil War, the structure changed dramatically again. If it were not for the war, the situation would have continued the same as it did before the balance of powers between the pro-Westerns and the Pro-Russians, a constant of Ukrainian politics since 2000, at the least. One seizing power through elections that tended to be more and more fair and controlled, while ousting the opponents from key sectors. But the intrications of each clan were so deep that none of the clans were in the position to completely overturn the other. That happened under Kuchma's presidency, Yuchenko's presidency, Yanukovich's presidency, and now under Porochenko's presidency.

However, the civil war in the east, and episodically on the south of the country, have now exacerbated the tensions among the oligarchs, some of them seeing the war as an opportunity to seize further assets, redistribute the "cards" by gaining more and more power and control over production tools, i.e. steel, coal, gas, electricity, communication, railways, etc.

"A NATO source working in Ukraine (and previously in Afghanistan) said he had intelligence that the unrest in eastern cities such as Donetsk and Slovyansk and now a southern city such as Odessa is being orchestrated by five oligarchs in effort to boost their power with the new central government and acquire assets on the cheap.

"It is all a play for power and by destabilizing the regions, they show Kiev that whatever government is elected need to deal with them to have peace and get things done," source said."¹¹

The major difference is that each oligarch, including Ms. Tymoshenko, have all its own representative at the national parliament, the Rada, which turns into a difficult situation when faced with a totally stable partner for foreign states such as the EU because of the major risk of commercial and personal issues heavily impacting all official and political issues.

Many questions remain about the real impact of corruption, organized crime, and illicit trafficking upon Ukraine's decisions and policies. The EU Association Agreement raised many strategic questions, both inside and outside of Ukraine, which have turned into an economical and ideological war between the EU and the United States on one side, and Russia on the other.

¹¹ <http://capitolintelgroup.com/odessa-criminal-money-seen-behind-deadly-riot-and-other-separatist-action-sources/>



Does the EU have a positive impact on a stronger and more structured institutionalization throughout democracy and the State of law, even partially implemented? The experience of the Eastern European countries show that this might be the case, but the path ahead is likely to be difficult. The positive effect of the EU integration policies is obviously highly questioned: although it may have worked out in certain countries, it was catastrophic in other countries such as Romania and Bulgaria. However, the EU has always had a stabilizing role in all of these countries where the tense economical situation in fragile economies could have strongly destabilized the social and political structure in many occasions. We shall also notice that Ukraine can be considered as the second major failure of the EU foreign policy after Yugoslavia because the Union was not able to impede the war.

The other question is whether the EU has the capacity to enforce the same policies already exercised in other Eastern European countries? Ukraine is one of the largest countries on the European continent and efforts will be huge to get closer to it, as opportunities will be in abundance.

Managing the problems of corruption and organized crime will be one of the most important issues for EU trade because private interests shall easily overcome public interest and have a strong impact for both Europe and Ukraine. In that difficult moment, policy-makers will concentrate on what is really important and leave the rest aside.

Through all the various dangers, threats, incertitude and challenges, are these countries' mutual interests in line with the dream of the founders of Europe to build a continent that will never suffer from poverty and war again?

B- History of Organized Crime in Ukraine

History of organized crime in Ukraine

On the surface, today's Ukraine has moved past the rule of organized crime groups and the highly publicized contract killings of the lawless 1990s. But the small group of individuals who own much of Ukraine's wealth today almost all got their start in this lawless era, and most of them amassed their early fortunes through illicit activities, alliances with organized crime groups, and theft of state assets. Two sectors, in particular, were keys to establishing great fortunes: the extractive industries/metallurgy and the natural gas trade.

Over time, the tools of economic capture have become more sophisticated: instead of armed gangs, we see lawyers and notaries creating fraudulent ownership claims and falsified proxy battles, using multiple layers of shell companies served by off-shore banks. Still, the threat of violence underlies much of the corporate raiding that continues today, even if it has receded into the background. And self-enrichment remains the primary goal for many who serve in Ukraine's Parliament and at the highest levels of government, for whom conflicts of interest represent business opportunities, rather than moral dilemmas.¹²

The alliance between the oligarchs and the state has become entrenched at the highest levels of government, while at the local level, judges, police, local government officials and politicians have organized themselves into a corrupt network of mutual enrichment at the public expense. Where does organized crime end and organized corruption begin? Ukraine offers evidence that it is not really possible to draw a distinction.

While most post-Soviet states have developed an oligarchic class that owns a high proportion of the country's wealth, the situation in Ukraine appears to be one of the more extreme examples. According to our best estimates the 50 richest Russians own assets valued at 16% of Russia's GDP. In Ukraine the same group holds assets valued at 45% of the country's GDP.¹³ This fact has a huge impact on the country's politics, economy, and future development, not to mention the wellbeing of its citizens.

¹² See Alexander Kupatadze in *Organized Crime, Political Transitions and State Formation in Post-Soviet Eurasia*. Palmgrave MacMillan: New York 2012. P61. Kupatadze quotes a study of the 2001 Ukrainian Rada that found that 350 out of 450 Rada delegates owned businesses or interests in businesses and 300 of them were dollar millionaires.

¹³ See Andrew Wilson's chapter on Ukraine in "Pathways to Freedom" by Isobel Coleman, Terra Lawson-Remer and Andrew Wilson. (New York: Council on Foreign Relations. 2013) For his calculations, Wilson uses Forbes 2010 list of the World's Billionaires for Russia, and Korrespondent's list of Ukraine's richest for 2010, and World Bank GDP figures for 2010.

1- The Soviet Legacy

This legacy forms the basis for the outsized role played by organized crime and the political criminal nexus in Ukraine and other post-Soviet states. The cornerstone of the problem was the monopoly power that the Soviet state enjoyed over all aspects of economic and political life, unchecked by countervailing institutions, a private sector, or an independent civil society. Long-lasting single-party states have a tendency towards corruption and the USSR was no exception.

Theft from the state was pervasive in the Soviet period and not perceived as criminal by most citizens. Corruption was fed by the chronic shortages of goods and services, which resulted in the development of an entire “second economy,” aimed at satisfying consumer and production needs through smuggling, theft and illicit transactions.

Ties between the elites and crime groups had deep roots in Soviet society, dating back to the earliest revolutionary days, when the Bolsheviks used criminals to act as enforcers for the state, both inside and outside the prison system. During the post-Stalin period of rapid industrialization, as the “second economy” grew to massive proportions, alliances were cemented between the traders and entrepreneurs who did the deals, the party elite and enterprise managers who enabled them, and the law enforcement and other officials who were supposed to police them.

Directors of state-owned warehouses would write off goods, which would then be transferred to criminal enterprises and sold on the black market for prices far exceeding the official state prices. By the end of the Brezhnev era these corrupt relationships had reached to the very top of the political system and security apparatus, including Brezhnev’s daughter and son-in-law as well as his Minister of the Interior.

Gorbachev’s era of perestroika ushered in a loosening of political and economic restrictions, accompanied by rising prices, growing shortages and political unrest. The hesitant steps toward a market economy created opportunities for enrichment, but mainly for those who had access to scarce goods, resources, or hard currency and were able to make enormous profits by arbitraging the growing chasm between central planning and reality.

The Law on State Enterprises of 1987 inadvertently paved the way for the demise of state control over industry and the unrestrained rise of shady business, by allowing the formation of joint stock companies with ownership of up to 49% of a state enterprise. This had the unintended consequence of providing organized criminals with a means of setting up “legitimate” enterprises with highly-placed government officials. The anti-alcohol campaign and the upsurge of ethnic conflicts brought further opportunities for criminal networks to flourish.

2- The Independence¹⁴

The collapse of the Soviet Union was a turning point for the integration of organized crime into legitimate business, as the Communist Party's monopoly was eliminated, and nothing was put in its place. Several distinct, yet interconnected, groups emerged during that period to form the backbone of the criminal underworld and the political-criminal nexus of the post-Soviet states.

Ukraine's Former President, Viktor Yanukovich, was also depicted as an alumnus of the Soviet prison system, although the details of his story are disputed. There are several reports that he was sentenced to 3 years in prison in 1967 for robbery and/or assault and soon after his release was convicted of manslaughter and served another two years. Yanukovich's own version, as related to the U.S. Ambassador, was that both cases were fabricated by a local policeman who wanted his grandmother's land.

Yanukovich was 17 at the time of his first conviction. The records pertaining to his case appear to have vanished, and there are further disputes as to whether this is evidence of guilt, innocence, or simply normal practice for the time. (See Nina Khrushcheva, "Ukraine: Democracy and its Cynics" Feb. 7 2010 (project-syndicate.org/commentary/Ukraine-democracy-and-its-cynics) Taras Kuzio "Yanukovich tries to clean up his image".

Source: Eurasia Daily Monitor, June 20 2004. The interview with Ambassador John Herbst can be found at www.cablegatesearch.net/cablephp?id=06KIEV1996

First, were a fairly small number of traditional "thieves-in-law" (*vory v zakone*) who were the professional criminal elite who lived according to their own code and had controlled the prisons of the Soviet Union. In the chaotic years immediately after the fall of the USSR, they had the reputation, connections and muscle to take control of many of the most lucrative early rackets and illicit markets.

One of the most infamous was Semyon Mogilevich, who was a leader in siphoning off profits from the lucrative natural gas trade in the 1990s and first decade of the 21st century. Overall, however, Ukraine had fewer thieves-in-law than Georgia and Russia and their role was less significant.

A second group, which also included alumni of the Soviet prison system, consisted of the illicit entrepreneurs from the late Soviet period, when most forms of private commerce were illegal. Even those who started making their money during perestroika operated mainly in the shadows, since the profits for legitimate business were low and taxation and other exactions were confiscatory.

A third group that has contributed much of the "muscle" to organized crime was made up of former military, police and security officers and athletes – all of whom enjoyed privileges, or at least security, under the Soviet system, but fell on hard times in the successor states.

¹⁴ An interesting analysis of the 20 years of Ukrainian independence: http://i.tyzhden.ua/content/files/ukrainianweek/07.11/book%20uw20_eng_new.pdf

The ex-military found themselves jobless, but with easy access to weapons, as the Red Army drew down, and while ethnic conflicts in the Soviet successor states, including the burgeoning conflicts in post-Cold War Africa, created lucrative markets for weapons and ammunition. Many ex-KGB played an important role in the emergent financial sector, exploiting their Soviet-era international experience and connections.

Athletes, who had been liberally subsidized in the Soviet period, began their post-Soviet careers as bodyguards and often ended up as members – or, in some cases, leaders – of political-economic-criminal “clans.” In more recent years oligarchs linked to organized crime have invested heavily in building up and supporting sports teams and athletic facilities, leading to a situation that could best be described as a “criminal-athletic nexus” in many professional sports.

Ukraine’s debut as the site of a major international sports tournament, the quadrennial Euro 2012 soccer championship, gave a boost to this phenomenon with large-scale state funding for the construction of sports amphitheatres and other infrastructure, built by private-sector firms through contracts with the Government of Ukraine.¹⁵

The fourth group was comprised of the Soviet state enterprise managers, Communist Party insiders and local officials, who were in place in the waning days of the old system, and were able to seize control of their enterprises in the early 1990s, and then exploit all their networks in government, the security services, and criminal circles to maintain and extend their hold.

The power of this group, known as the “Red Directors”, has been strongest in countries like Ukraine, where the political transition was gradual and not followed by any serious political shakeups or purges. When privatization took place, they were able to grab and keep an inordinate share of the economic pie. Examples of this group among the Ukrainian oligarchy include Vladimir Boyko, Vitaly Houdik, Sergei Taruta, Igor Kolomoisky, and Viktor Nusenkis.

¹⁵ “Euro 2012: UEFA urged to investigate \$4 billion corruption allegations in Ukraine” by Luke Harding and David Leigh, in *The Guardian*, June 25 2012.

3- Ukraine's Inheritance

The power of organized crime and the political-criminal nexus are common to all post-Soviet states, but geography, history, economics, and opportunity have shaped the specific forms they have taken in each country. Geography has played a huge role in the development of criminal networks in Ukraine.

The country sits astride land routes linking Russia to Europe, and also the Black Sea routes that link Turkey, the Middle East, the Caucasus region, and Europe. These have all developed into prime routes for smuggling illicit goods and people into Europe's huge market, especially as the EU has expanded, and transit corridors for smuggling arms, counterfeit cigarettes, drugs, and other illicitly-traded commodities along East-West trade routes.

Another important geographic factor has been Ukraine's proximity to Transdnistria and Abkhazia. In the early 90s, the ongoing conflicts in these regions fed the illegal weapons trade. In more recent years, as the military aspect of the conflicts has died down and organized crime has become ensconced, this proximity has facilitated a number of criminal links.

Location was key to the development of two of the most profitable illicit trades in Ukraine: the gas and weapons trades. The gas lines that cross Ukraine to bring Russian and Central Asian gas to European markets are a key geographically-based asset that has been milked by the political-criminal nexus since the first days of independent Ukraine.

The trade in weapons arose initially because of Ukraine's proximity to conflict zones and Black Sea ports, but also stemmed from the fact that Soviet Ukraine was a key link in the Soviet Union's border defenses, and hosted major military facilities and weapons depots that the new Ukrainian state was unable to properly safeguard.

The second important factor in shaping Ukraine's political-criminal nexus was the fact that Ukraine started its period of independence with a resource-rich and highly industrialized economy. Control over Ukraine's many assets was contested by various regional groups or "clans" with connections to different economic sectors.

The struggle to control these assets, and profit from them, became a major element of Ukrainian politics, helped along by the fact that privatization came about slowly and unevenly, controlled by entrenched corrupt interests, which had already hijacked the political process.

Political and historical factors are also important. Soviet Ukraine's contested history and geographic position bordering the West caused Soviet authorities to rule the republic with a heavy hand, enforcing political orthodoxy and ruthlessly suppressing signs of nationalism or independent thought. But while Ukrainians as a group were repressed, influential individuals in the republic enjoyed easy access to the highest levels of Soviet power.

A final factor that may have contributed to post-Soviet Ukraine's susceptibility to capture by organized crime was the fact that it had inadequate law enforcement and investigative capacity to counter this phenomenon, although many have argued that lack of will was more important than lack of capacity.

As Anders Aslund has recounted, there were four simple ways of accumulating great wealth in Ukraine in the early 1990s—as long as you had political connections and control over the right assets. The first was by trading in metals and chemicals that were bought in Ukraine at state-regulated prices (equal to 10 per cent of the world price) and then sold abroad at full market prices.

The second was through the trade of products, such as Russian gas, that were imported at subsidized exchange rates and then sold in hard currency. The third was through being allocated subsidized credits issued at a 20 per cent interest rate when inflation soared and eventually topped 10,000 per cent. And the fourth was through budget subsidies, which totaled 8 % of GDP in 1992, and more than 10% in 1993.¹⁶

A sociological study conducted in 2004 shows, however, some specificity in the Ukrainian organized crime groups (see Appendix 5 for details). The developed behavioral model, based on four elements (organism, personality system, social system, culture), can be divided into three heterogeneous sets: First, there is an ideological infrastructure that embodies the tradition and mythology of organized crime as a worldview and a way of life. Next, there are intra-group rules that are the common rules and traditions of individuals involved in organized crime. These results form specific group dynamics, but are common to all organized groups. They include leadership, group control, structure, the determination of roles, and external and internal controls. Third, there are the standards and techniques for specific criminal behavior; the criminal “know-how” needed to carry out the commission of crimes.

¹⁶ Aslund, Anders, *How Ukraine Became a Market Economy*, Peterson Institute: Washington DC, 2009



C- Trends of Organized Crime in Ukraine

Trends of Organized Crime in Ukraine

According to official statistics, which are quite detailed in the topic, the presence of "classical" organized crime groups in Ukraine is declining rapidly. Detailed statistics show an evolution of -34.2% which is a considerable achievement, given that the country has suffered extensively at the hands of organized crime groups for over a decade. This trend is confirmed by local and foreign observers and specialized agencies.

Such positive information shall however consider that the same statistics are showing a positive trend in the internationalization of Ukrainian criminal groups. The analysis of the figures also shows that there seems to be a trend toward a concentration of people and criminal activities in less and less different organizations. 2012 statistics show that 193 groups out of the total 258 have existed for less than a year.

Such observations shall raise concern about the transnational law enforcement possibilities. We have numerous examples where local organized crime groups have been forced to "delocalize" elsewhere to fly effective enforcement in their country of origin. Georgian organized crime groups are one of the most recent examples.

When former President Shakashvili imprisoned most of the top criminals of the country (*vor v zanoke*), criminal groups relocated successfully to other European countries such as Spain, France, Germany, and Austria to escape hard opposition and continue their activities. We also must note that, historically, Ukraine was a place from where very few *vor v zakone* originated, in contrast to Russia, Georgia, or other former Soviet republics.

We also point out the relationship between institutions and organized crime groups. As we have seen these in recent years in Italy and Russia (and Mexico is taking this path right now), the reinforcement of state powers creates a redistribution of powers among organized crime groups who then have to choose to abide to state authority or disappear. That's also why a lot of organized crime groups have disappeared, but other groups took over their activities. As Roberto Saviano outlined, "It is not the mafia that choose the illegal markets, but the illegal markets that choose the mafias".

These trends leave the institutions with a difficult challenge: being able to stay in control of groups that become more and more powerful because of the disappearance of competitors. This is a very difficult task and the reinforcement of law enforcement agencies is one of the strategies Ukraine is trying to follow, but not the only.



In June 2013 Gennady Moskal, Deputy Chairman of the Rada's Committee on Organized Crime, initiated a law in Parliament that would make the punishment for any police officer found to be involved in organized criminal activity more severe and would categorize the police officers involved in crime as 'organizers' if they have a role in criminal activity.¹⁷ One of the major challenges Ukraine law enforcement leaders now face is to regain control over the country's agencies and agents, police officers, security officers, etc. who in some cases are considered to be "werewolves in epaulettes".

¹⁷ Vesti.ua, 19 June 2013

1- Trends in illegal activities

As the foregoing discussion makes clear, organized crime in Ukraine has matured from the street-gangster type shootouts of the 1990s to corporate raiding and the development of large-scale capital-based oligarchic structures. Many of the surviving criminal leaders have gone legal and are now 'legitimate businessmen' and/or politicians, who use media acquisitions, the new "anti-libel law" and parliamentary immunity to discourage anyone from taking a close look at their past and at their current activities.

And the state security apparatus has been sufficiently revived so that Ukraine no longer has the organized criminal bands of the 1990s which were able to smuggle sophisticated weapons or large quantities of drugs without little or no involvement from the state. Traditional high-level organized criminals (*vory-v-zakone*, or "thieves-in-law") are on the sidelines, playing little role in "high politics."

Often of Georgian or Armenian origin, they control the groups that are involved in robberies, theft, and petty smuggling. They remain useful to the authorities because a lot of deal-making and negotiation still happens in the "grey zone" where criminals play a significant role. The community of thieves-in-law spans from Central Asia to Europe and its network capabilities can be a useful conduit for illicit trafficking in various goods.

They are also tools for the authorities to maintain leverage over the underworld and govern penal institutions that remain the stronghold of organized crime across post-Soviet Eurasia. It is often a "strategic necessity" for the authorities to co-opt and accommodate them, due to their ability to influence prison population and to organize prison riots. However this rarely has strong implications for the economy on a larger scale.

To some extent, traditional organized criminal activity has also been taken over by the representatives of formal institutions such as the police and other security services. The involvement of law enforcement personnel in organized crime has become such an acute issue that MPs started discussions on criminalizing "werewolves in epaulettes", a term that has often been used to describe various configurations of police-dominated criminal organizations.

In June 2013 Gennady Moskal, Deputy Chairman of the Rada's Committee on organized Crime, initiated a law in Parliament that would make the punishment for police involvement in organized criminal activity more severe and would categorize the police officers involved in crime as 'organizers' if they have a role in criminal activity.¹⁸

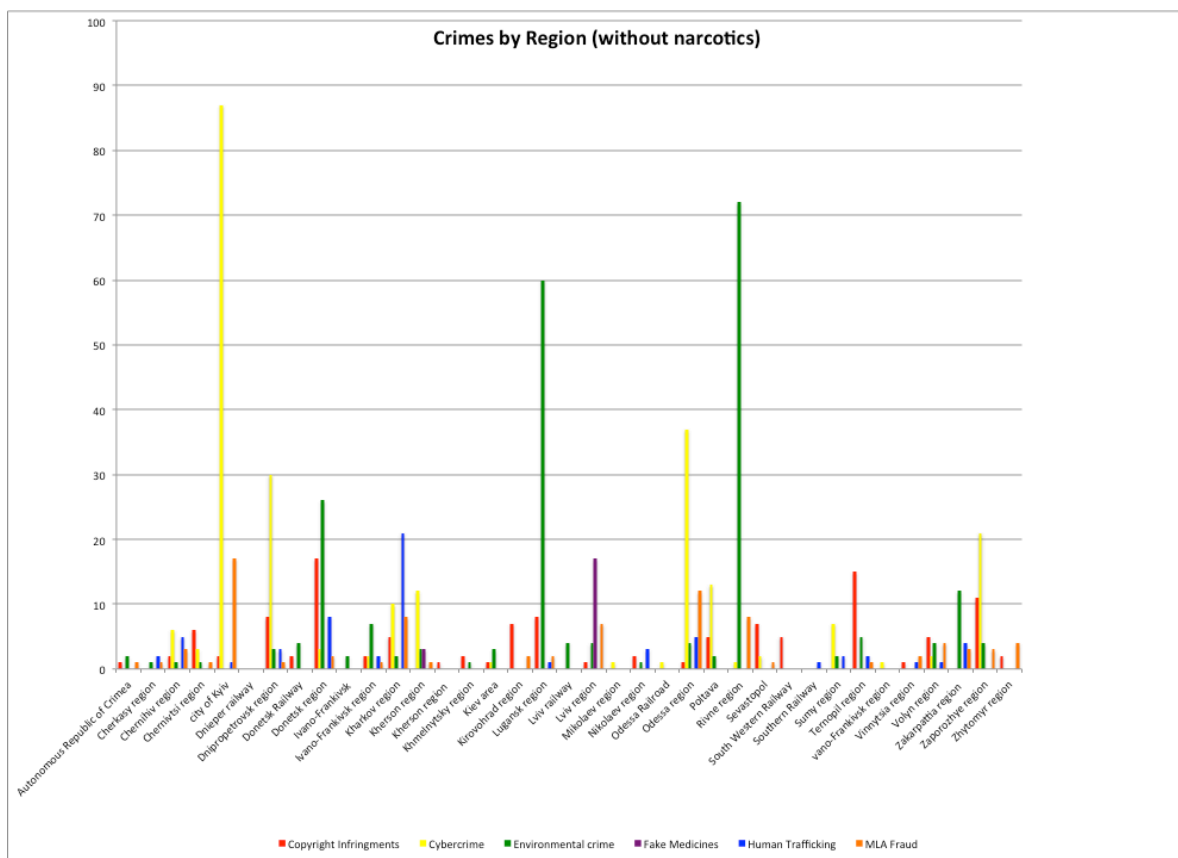
As the following discussion indicates, organized crime in Ukraine is part of a global phenomenon, with strong international links and a diversified portfolio

¹⁸ Vesti.ua, 19 June 2013

of criminal activities. Ukrainian groups are involved in every form of lucrative criminal activity locally as well as transnational. Specific crimes such as cigarette smuggling and cyber crime have been on the rise over the past several years.

1.1 General statistics

Regarding the trends and statistics of the different types of crime, we only were able to retrieve detailed statistics for the years 2012 (complete) and 2013 (incomplete) during our research in November 2013 in Kiev. We present two graphics about the type of crime by regions, one without the narcotics and one with the narcotics only (which are overwhelmingly numerous).



The above graph shows mainly three “summits” in criminal activities by regions:

- 1) The cybercrime activity in the City of Kyiv
- 2) The environmental crime in the region of Luhansk and
- 3) The environmental crime in the region of Rivne

These three “summits” by region are made of a number of cases that is not extremely high compared to the other agencies reporting. The retrieved cases are however the exact picture of the judicially processed cases until the month of November 2013.

The importance of the cybercrime cases in the City of Kyiv shall be replaced into a context of a joint INTERPOL operation against cybercriminals in more than 8 different countries including Ukraine. While we can't state for certain that such an operation was a success, in part because the magnitude of the problem still remains unknown, we can for sure state that the influence of INTERPOL and of a foreign or international joint operation boosts up the capabilities and results of the local police as was also demonstrated by the INTERPOL operation "Black Poseidon" (cf. below).

1.2 Narcotics



According to the State Customs Committee, drugs were the item most frequently smuggled through Ukraine in 2012 (70% of all smuggling.) This is confirmed by the official crime statistics. In 2012, authorities intercepted 7 kg of heroin, 104 kg of cocaine, and more than 30 kg of cannabis.¹⁹ But this was probably only the tip of the iceberg and some studies suggest that Ukraine is one of the key transit and consumer countries for drugs.²⁰

In recent years the smuggling of synthetic drugs from China and India (for example tramadol from India) and increasing volumes of Latin American cocaine trafficking through Black Sea port of Odessa has been detected. Afghan heroin is also smuggled via the "Black Sea route" travelling through Iran, Azerbaijan and Georgia to Ukraine and Romania and onwards to the Baltic and Nordic countries.²¹

Officially there are 150,000 drug users in Ukraine but experts put the numbers much higher, i.e. between 300,000 and 500,000 consumers.²² Some evidence suggests that the Russian and Ukrainian heroin markets are already larger than the EU market.²³ In 2012, four groups of policemen involved in drug sales were apprehended.²⁴

The recurring cases in Dnepropetrovsk and Kharkov indicate that policemen either provide protection for the groups engaged in drug distribution or sell the drugs themselves.²⁵ Earlier field research in Odessa suggests that the representatives of security services, customs and police provide protection for the brokerage companies involved in smuggling.²⁶

There is also an illegal market in synthetic drugs and psychotropic substances (katerpin, zestra, kadesan, tramadol) that runs through legal pharmacies.

¹⁹ Ministry of Revenue and Duties of Ukraine 2012.

²⁰ SOCTA 2013

²¹ OCTA 2012

²² Newru.ua 23 October 2012, US State Dept Narcotics Report 2013

²³ SOCTA 2013

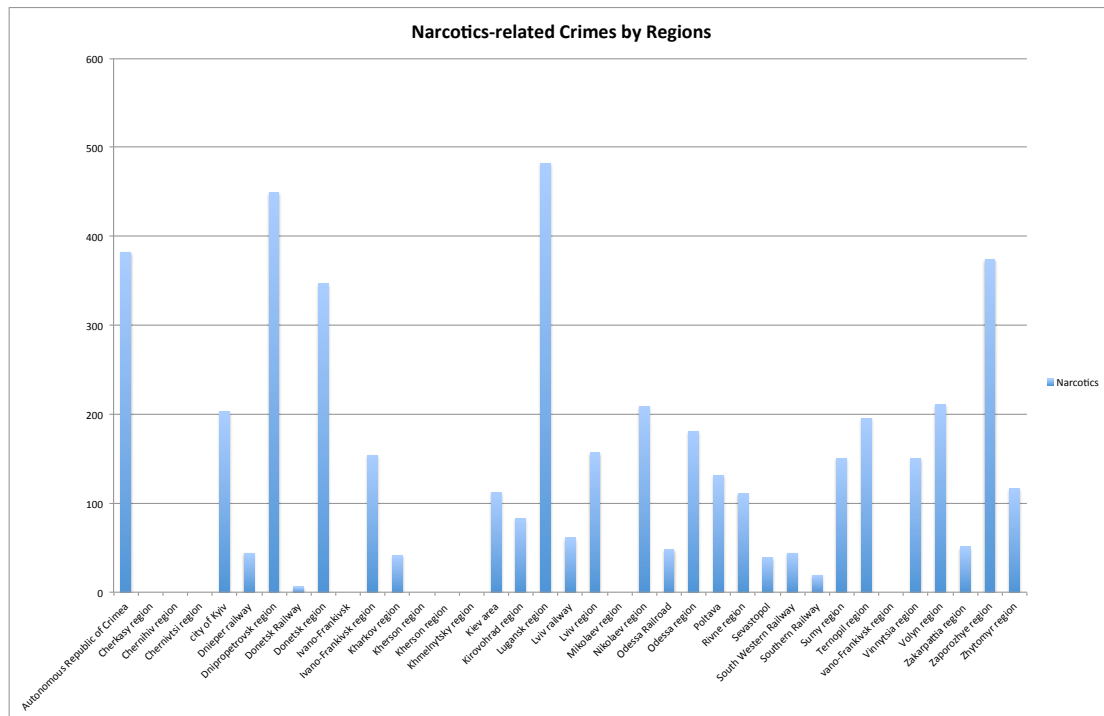
²⁴ Vesti.ua, 19 June 2013

²⁵ Komsamolskaya Pravda 26 September 2013, Gorodskoy dazor 26 August 2013

²⁶ Kupatadze, 2012, op.cit.

Some of these drugs are produced in legal pharmaceutical factories, others in small illicit labs in Ukraine.

We've been able to compile a set of 2012-2013 judicial cases by region on Ukraine regarding narcotic cases:



This graphic, made thanks to the access granted to the national database of judicial cases that existed before the Maidan (we don't know if it still exists today) shows that narcotic cases are more numerous in the Eastern region of Ukraine than anywhere else (Dnipropetrovsk, Luhansk, Donetsk and Zaporozhye).

1.3. Counterfeiting and illicit goods trafficking



Counterfeit pharmaceuticals are a serious problem in Ukraine as in most of the former Soviet Union, where the prevalence rate of counterfeit pharma is estimated to be approximately 20%. This relates to the production of counterfeit goods include pharmaceuticals. Numbers cited for specific drugs and markets in Ukraine go as high as 40 and even 80%, but it is not clear what data they are based on.²⁷

In August 2013, the director of the Ukrainian distributor of a major German homeopathic medicine supplier (Heel) was arrested for counterfeiting.

²⁷ Sebastian Strobl, "Counterfeit drugs in industrialized and developing countries" http://dgra.de/media/pdf/studium/masterthesis/master_strobl_seb.pdf

Ukraine's State Administration for Medical Products (SAUMP) reported that they found 3.9 million packages of counterfeit and unlicensed products with a market value approximating \$37 million at the company's Kyiv premises.²⁸

But counterfeiting reaches far beyond pharmaceuticals. Kyiv Post reported that the share of fake packaged cement on the market is at least 50% and more than 30% of petrol sold at Ukrainian petrol stations is counterfeit.²⁹

In 2013, the US Government singled out Ukraine as the major centre of intellectual property theft and designated it as a 'priority foreign country' citing unfair and non-transparent administration of the system for collecting penalties, widespread use of illegal software by Ukrainian government agencies, and failure to implement an effective means to combat the widespread online infringement of copyright and related rights.³⁰

Operation Poseidon

An INTERPOL-led operation against illicit goods trafficking across Eastern Europe has revealed the extent and increasingly elaborate methods used by transnational crime groups to traffic illicit goods with more than 1,400 individuals arrested or under investigation and the seizure of 7.3 million trafficked goods.

The month-long Operation Black Poseidon (May 2012) involved INTERPOL's National Central Bureaus in Belarus, Georgia, Moldova, Turkey, and Ukraine working with national police and investigators who carried out some 1,700 interventions at commercial locations including markets, as well as at ports and airports, in cooperation with prosecutors, customs and intellectual property crime experts.

Vasyl Nevolia, the Head of INTERPOL's National Central Bureau in Kiev, Ukraine, said: "Operation Black Poseidon was important in removing potentially dangerous and sub-standard goods from circulation. It highlights the need for international police cooperation and what can be achieved through regional and global operations against organized crime networks."

"The success and the increased awareness provided by Operation Black Poseidon demonstrates that the fight against intellectual and industrial property crimes has become a priority for Turkey's police authorities, in addition to fighting terrorism and drug trafficking," said Rafet Ufuk Önder, the Head of INTERPOL's National Central Bureau in Ankara, Turkey.

With officers from INTERPOL's Trafficking in Illicit Goods unit coordinating the international operation both on the ground and at its General Secretariat headquarters in Lyon, Operation Black Poseidon led to the seizure of illicit clothing, toys, foods, electronics, cigarettes, tobacco, agrochemicals, and vehicle spare parts worth 123 million Euros.

"Operation Black Poseidon will have dealt a serious blow against the transnational criminal networks behind illicit trade, as well as protected the public from potentially dangerous substandard and fake goods, and raised awareness of the threat these represent," said Simone Di Meo, Criminal Intelligence Officer with INTERPOL's Trafficking in Illicit Goods programme and the operation's coordinator.

The operation was carried out within the framework of INTERPOL's Trafficking in Illicit Goods initiative, which aims to identify and dismantle the organized crime networks siphoning billions of Euros from the public purse through the trafficking of illicit goods.

"The high number of arrests and illicit goods seized during Operation Black Poseidon highlights the international scale of illicit trade and the benefits national police, customs and other law enforcement agencies derive from working closely together with representatives of regulatory bodies and the private sector to stop the criminal networks behind this crime," said John Newton, the head of INTERPOL's Trafficking in Illicit Goods unit.

INTERPOL's initiative combating illicit trade will assist police across its 190 member countries to not only target the transnational crime groups but also identify the routes used in transporting illicit goods, which are often also used for human trafficking and drug smuggling.

The key role that industry will play in supporting INTERPOL's initiative was underlined with the decision by Phillip Morris International in June to pledge 15 million Euros over a three-year period to INTERPOL's Fund for a Safer World to help the world police body develop a strong global programme against trafficking in illicit goods.

(<http://www.interpol.int/en/Internet/News-and-media/News/2012/PR056>)

²⁸ Securing industry.com 16 August 2013.

²⁹ See Kyiv Post 17 May 2013 and Interfax-Ukraine 5 June, 2013.

³⁰ USTR 2013.

1.4. Tobacco



Ukraine plays a central role in supplying the EU market with counterfeit tobacco products. In July 2012, Slovak officials discovered a 700-metre long, professionally built tunnel, equipped with its own train to smuggle tobacco and possibly people from Ukraine into the European Union (EU). Police seized more than 13 thousand cartons of tobacco and tobacco products, with a total tax and duty evasion of 350,744 euro.³¹

Smuggling operations in this region are usually a joint exercise of Ukrainian, Polish and Lithuanian groups. Polish groups have been caught smuggling cigarettes from Ukraine to Italy; Ukrainian front companies import the tobacco, while other ingredients are delivered through the Lithuanian port of Klaipeda, with the actual production taking place in Poland.

Another case, Operation HOPE, uncovered by the European Anti-Fraud Office, (OLAF) involved the shipment of suspect tobacco from Brazil, through Lithuania, Poland and Ukraine, to Armenia.³² During the course of “Black Poseidon II”

an Interpol-led operation, authorities in Ukraine discovered an illegal tobacco factory hidden underground and seized 250 thousand packs of counterfeit cigarettes.³³

Although the major part of the cigarette production is done by the major international brands, other local actors have sneaked in the business for some

Cigarette smuggling: the ICIJ 2008-2009 inquiry

The growing traffic pushes huge supplies of cheap, untaxed, and unregulated cigarettes into the rest of Europe, undercutting otherwise successful attempts to curtail smoking. Worse, officials say, the trade is boosting organized crime gangs, who find the soft penalties and big profits hard to resist.

The numbers tell the story. Each year, Ukraine’s cigarette consumption and legal exports top 100 billion sticks, according to Ukraine’s Ministry of Health. Yet in 2008, tobacco companies manufactured and imported nearly 130 billion cigarettes — 30 percent in excess of what the local market can consume. These “extra” cigarettes disappear in the market, feeding an illicit trade that is worth, conservatively, \$2.1 billion annually. Ukrainian cigarette production, meanwhile, has steadily risen since 2003, according to an analysis by ICIJ of data compiled by SOVAT, a tobacco and alcohol industry association, and Ukraine government statistics. In fact, cigarette production in Ukraine increased one-third between 2003 and 2008 — from 96.8 to 129.8 billion — with JTI and Philip Morris leading that trend. What happens to those 30 billion “lost cigarettes”? The huge surplus has reached such proportions that it has become a parallel industry, experts say, with all sides benefiting from it, from manufacturers to organized crime gangs who control the black market. In addition, hundreds of thousands of Ukrainians, Romanians, Hungarians, and Poles along the border rely on the trafficking of cigarettes for their livelihood, buying the cheap smokes in Ukraine and unloading them tax-free in European countries where prices are far higher.

Source:

https://reportingproject.net/underground/index.php?option=com_content&view=article&id=8:ukraine-s-lost-cigarettes-flood-europe&catid=3:stories&Itemid=21

³¹ World Customs Organization 2013

³² See UNODC 2012, OCTA 2011, and “Illicit Trade in Tobacco” p.33.

³³ Interpol 18 July 2013.

time now, mostly in the distribution areas. One of the largest tobacco distributors in Ukraine was the company called Megapolis Ukraine, the largest wholesale cigarette distributor in Ukraine. This company was owned by a holding called Vertex belonging to the oligarchs Boris Kaufman and Alexander Granovski from Odessa³⁴.

More recently, in December 2014 and January 2015, the SBU launched an operation to strengthen the controls over the checkpoints in the southern part of the country after allegedly discovering that part of the cigarette smuggling was financing the authorities of the separatists in Donetsk.

1.5. Human trafficking



Human smuggling remains a major problem. IOM regards Ukraine as the top country with human trafficking problems since the number of victims seeking help from the organization is the highest. The number of victims assisted in 2012 (945 individuals) matches the level in 2006 which means that the problem is not diminishing in importance.³⁵ Ukraine is a source, transit, and, increasingly, destination country for men, women, and children subjected to forced labor and sex trafficking.

The US department of State report places Ukraine in Tier 2 countries where governments do not

Human trafficking trends in Ukraine: 2000-2012

According to the estimates obtained, in the mid-2000s every year at least 22,000 Ukrainian nationals found themselves enslaved overseas. The total number of human-trafficking victims was at least 110,000 persons over three to five years before the study. However, the data obtained should rather be regarded as a minimum estimate, taking into account the probable degree of respondents' sincerity. For instance, UDHS indicates that almost every tenth (9.6%) respondent personally knew a human trafficking victim. (...)

3,240 crimes were registered in this field by the Ukrainian Ministry of Interior (1998-2012) and the courts delivered 776 verdicts. Over recent years the number of registered crimes went down, while the number of verdicts went up. This indicates the enhanced efficiency of law enforcement agencies in the combat against human trafficking. (...) 20 September 2011 Ukrainian Verkhovna Rada passed a Law "On Counteraction against Human Trafficking". (...) The Ukrainian Cabinet by its Regulation of 21 March 2012 adopted the State Target-Oriented Social Program for the Counteraction against Human Trafficking for the Period until 2015. This determines tasks and measures aimed at preventing human trafficking, enhancing the efficiency of assistance rendered to human-trafficking victims, ensuring proper law enforcement activities to suppress trafficking. It identifies the volume and the sources of funding for these activities. (...) However, despite significant efforts on the part of the Ukrainian government to eliminate human trafficking, Ukraine does not yet fully correspond to even minimum world standards in this field (...) The insufficient efficiency of state agencies fighting human trafficking is demonstrated by the low awareness of the Ukrainian population about this phenomenon. According to UDHS (2007) 48% of respondents have never heard of human trafficking cases; 51% of respondents could not assess their own risk of becoming human-trafficking victims; and 56% of respondents could not estimate whether the risk of becoming a human-trafficking victim had gone up or down over the three years prior to the survey. All three parameters are lower in the cities than in the villages and go down with better education and prosperity.

Source: CARIM-East Explanatory 2013/67 © 2013 EUI, RSCAS

³⁴ <http://capitolintelgroup.com/odessa-criminal-money-seen-behind-deadly-riot-and-other-separatist-action-sources/>

³⁵ IOM Mission in Ukraine, 2013.

fully comply with the standards but are making significant efforts. The most significant shortcoming is the failure to devote resources to investigating trafficking crimes and protecting trafficking victims. A high level of corruption in law enforcement structures and a general institutional ineffectiveness are the contributing factors that at least partially explain the shortcomings in fighting human trafficking.³⁶

1.6. Contract killing



Even though corporate raiding has become the dominant form of property redistribution over the past several years, violent means are still used. A number of businessmen have been assassinated in Crimea, Odessa and Kharkiv. This also means that the demand for criminal actors specializing in violence is still high.

Contract killings are usually more difficult to conceal and they are captured in official statistics, except in case where they are disguised as car accidents, suicides, etc. The Ministry of Interior registered a total of 147 contract assassinations from 2007-2012 (30 in 2007, 30 in 2008, 16 in 2009, 25 in 2010, 28 in 2011 and 18 in 2012). According to the Ministry, the primary motives were the failure to pay debts, property distribution/division of spoils and elimination of business competitors.³⁷

These contract killings differed from the assassinations of the 1990s when the turf wars mainly eliminated the representatives of the traditional underworld (thieves-in-law) and emerging political-industrial groupings would target their rivals from opposing camps in politics and business (for example the assassination of Evgeny Scherban).

More recently, young businessmen have been assassinated who were not the benefactors of post-Soviet murky privatisation deals but, instead, started their rise over the past several years. This suggests that the on-going violence is more of a battle over newly emerging market opportunities, than a settling of old scores from the chaotic years of post-Soviet privatisation.

Two contract killings in 2013 - Roman Mikita, the partner and director of IT company NRAVO, a leader of the mobile phone gaming market, who was stabbed to death in Lviv, and Yaroslav Bisaga, the general director of Omega Avtopastavka, a leading importer of auto parts who was shot in Kharkiv are good examples of this new wave.

Government representatives are also still targeted, for instance in the period 2010-2013 three officials, two mayors of resort towns and one senior member of the village council in Crimea were slain, reflecting the high level of the

³⁶ US Department of State Trafficking in Persons (TIP) Report, 2013.

³⁷ Tizhden.ua 6 September 2013

criminalisation of politics in the region as well as the on-going struggle for control over its lucrative real estate and resources.

1.7. Cybercrime



The business survey of PricewaterhouseCoopers (2011) indicates that the number of Internet frauds is perceived to have increased in 2011 compared to 2009 (by 22%). According to Oleg Zavorotnyi, from the directorate for fighting cybercrime in the Ukrainian Ministry of Interior, more than 2 thousand cases of Internet fraud were registered in 2012. The most prevalent schemes are the fraudulent sale of non-existent goods, online Ponzi schemes, identity theft, and online banking theft from the accounts belonging to individuals and companies.³⁸

Every fifth Ukrainian company and every second Internet user have been the targets of cyber criminals. According to some estimates, 116 million Ukrainian hryvnas have been lost to cyber criminals in 2012 but 75% of this money was successfully returned.³⁹ Along with Russia and the Balkans, Ukraine is known as a source country for cyber attacks and is often listed among the top 15 in the worldwide list compiled by Deutsche Telekom.⁴⁰

In 2008, the authorities closed down “Innovative Marketing Ukraine” which was a key link in an international business chain that developed “scareware” – software that poses as anti-virus protection in order to infect computers and steal information from them. Authorities reported that the company had \$180 million in revenue in 2008. The Ukrainian branch where the scareware was developed had 200 employees when it was closed down.⁴¹

1.8. Corporate raiding



The origins of “*reyderstvo*” are tied to organized crime during the late Soviet and early post-Soviet period, when owners of kiosks, small cooperatives and private businesses needed to pay off local organized crime groups to provide a “roof” (*krysha*) to protect them from having their businesses and assets taken over by corrupt officials or criminal groups.

³⁸ Segodnya.ua 9/13/2013.

³⁹ Zn.ua 5 July 2013

⁴⁰ See Financial Times 5 May 2013 and <http://www.sicherheit.stacho.eu/>

⁴¹ Oksana Prykhodko “Innovative Cybercrime: made in Ukraine” in Flarenetwork, July 1 2010

By the later 1990s and early 2000s, raiding had grown substantially in scale and complexity, as privatization moved forward in fits and starts, and raiders used a combination of violence, fraud and intimidation to gain “legal” ownership over privatized and privatizing enterprises, many of which they already de-facto controlled.

Ukraine is not the only country where political power confers economic benefits, but it is one of the most flagrant. However, since many of the country’s most valuable assets have already been privatized, new claimants to wealth increasingly need to take assets from other individuals, rather than from the state. This, in turn, has led to an upsurge in corporate raiding, the most visible sign of this inter-elite struggle for assets.

In Ukraine, as in Russia, corporate raiding has emerged as a major disincentive to foreign and domestic investment and a serious contributing factor for capital flight. Since 2005 there have been governmental bodies tasked with investigating complaints about raiding.

The former “Inter-departmental Commission on Counteracting Illegal Takeovers and Raids” was headed by First Deputy Prime Minister Arbuzov. None of this government activity has made a dent in popular perceptions that high-level officials not only protect the raiders, but are often themselves the ultimate beneficiaries of the raids.

To a certain extent, the attitude of the authorities toward the “raiders” might change but nobody can obviously say at present the direction it will take: different claims and arbitration have seen Ukraine condemned for supporting or “backing” raids, but the current powerful position inside the country of the very same “raiders” or their supporters seems to turn any judicial decision into a “flop” overcome by other necessities, such as political balance of power’s needs or the war necessities.

1.9. Weapons trading



Ukraine’s weapons trade in all of its forms – licit, quasi-licit, and outright illicit – is inextricably linked to its shipping and transport industries. Between 1992 and 1998, \$32 billion worth of heavy weapons, small arms, ammunition and other military equipment is estimated to have disappeared from Ukraine’s post-Soviet stores.

One major node along illicit weapons trafficking routes has traditionally been the port of Odessa, out of which notorious arms trader Leonid Minin operated in the 1990s in concert with Odessa organized crime boss Aleksandr Angert (criminal nickname “Angel”) to deliver weapons to Charles Taylor in Liberia, the RUF, and others.

Viktor Bout was known to have obtained weapons in Ukraine. Even in the early years, at least some of the illicit arms sales from Ukraine were directed from the highest levels of power. In summer 2000, then-president Leonid Kuchma was recorded on tape personally directing illicit weapons sales.

In conversations secretly recorded by Kuchma's bodyguard Mykola Melnychenko, a voice identifiable as Kuchma's is heard both approving the sale of military-grade radar systems to Saddam Hussein for \$100 million and ordering the chief of Ukraine's intelligence agency to "take care of" Georgi Gongadze, a Ukrainian journalist who had doggedly tracked the involvement of the Ukrainian government in illicit arms sales (Kuchma denies the authenticity of the tapes)⁴².

The recent report by the Washington DC based non-profit C4ADS, which took a detailed look at the issue of Russian and Ukrainian arms transfers, concluded that by now, all major weapons transfers – whether licit or illicit – are directed by the Russian and Ukrainian governments. However, they still frequently use the logistical and financial networks known as the "Odessa Network" to facilitate and camouflage arms transfers.

"The Odessa Network" links suspicious port activity out of the river port Mykolaev ("Oktyabrsk"), which runs into the Black Sea, to several companies. The most prominent of these is a company called Kaalbye, which the report suggests owes its preeminence in the suspected maritime illicit arms trade to the political connections of its founder Igor Urbansky, Ukraine's Deputy Minister of Transport from 2006-2009 and co-founder Boris Kogan, who is closely linked with Russia's defense-industry firm RosTech.

A recent investigative-journalism report from January 2013 suggests that Odessa's new "dry port" Evroterminal, used as a transport logistics and processing facility and a transit center for seamless integration of land-rail-sea transport⁴³.

⁴² Very recent updates on the assassination of the journalist Gongadze have surfaced recently in December 2014 and January 2015 that might open new investigation

⁴³ Tom Wallace & Farley Mesko, *The Odessa Network: Mapping Facilitators of Russian and Ukrainian Arms Transfers*, C4ADS, Washington DC, September 2013

2- Business, politics, clans and OCO: an historical perspective

As S. Matuszak states in his 2012 research, “it is impossible to understand modern Ukraine without understanding a number of dependencies existing between the political and business elites there”⁴⁴. He separates the analysis in 3 periods of structuring of the oligarchic clans and powers in Ukraine: from the second term of the V. Kuchma’s Presidency (1999-2004), from the Orange Revolution to the Presidency of V. Yanukovich (2004-2010) and from there to the Maïdan (2010-2014). We might add a 4th period, which is the Civil War, yet not over, where we live a redistribution of these dependencies between clans and oligarchs that is still not terminated, together with the inclusion of powerful international players into the Ukrainian games of power.

As in all the ex-soviet countries and even most of the Eastern European countries, the oligarchs started to amass capital during the perestroika and transformed this capital into assets just after the independence through the savage privatization process that happened. The nexus between clans and politics started during this period of group – or clans – formations where the business needed politics to approve their often-illegal moves and the politics needed the business to finance themselves and their power position. The organized crime groups were in the best position to play the “middle men” at the time and gained incredible wealth and power at the same time. In Ukraine, as S. Matuszak notice, “the mid 1990s resulted in a number of infamous murders of state officials (for example, of Vadym Hetman, a former head of the National Bank of Ukraine), well-known businessmen (for example, Yevhen Shcherban) and mafia bosses (Akhat Bragin)”⁴⁵.

After 1994 and the adoption of the Constitution which installed a presidential system, the groups (or clans) started to solidify in Ukraine mostly around large industrial assets, which were, for their major part, located in the Donbass basin (Donetsk, Luhansk, Dnipropetrovsk and Zaporozhye) and the Odessa region. S. Matuszak distinguish 3 big “groups” forming at this moment: the Donetsk “group”, mostly around the business of metallurgy, the Dnipropetrovsk “group”, of very strong influence during Kuchma’s first term and after the Orange Revolution, and more diversified around metallurgy, refineries, banking and financial services and gas industry. Lots of the most influential personalities of Ukraine have been linked to that group, such as Pavlov Lazarenko, Yulia Tymochenko, Viktor Pinchuk (Kuchma’s son-in-law), Igor Kolomoisky, Guennadi Bogolyubov and Sergei Tighipko. The last group mentioned is the Kyiv group, with the smallest base of the energy sector,

⁴⁴ Slawomir Matuszak (2012), « The Oligarchic Democracy : the influence of business groups on ukrainian politics », OSW Studies, no 42, September 2012, Warsaw, p.10.

⁴⁵ Idem p.13

banking, and media, but with huge political strength. Viktor Medvedchuk was considered the main figure of the group, together with the Surkis brothers.

In the beginning of 2000, when in Russia the oligarchic and corrupted structure of the Yeltsin regime faded with the rise of Vladimir Putin, President Kuchma in Ukraine was in a difficult position because of the known “Cassette Scandal” providing elements according to which the President was involved in the ruthless assassination of the journalist Georgui Gongadze of the *Ukrainyska Pravda*.

With the central power losing their grip on the situation, the groups started to “play their own games” to protect and consolidate their positions. At this moment, what would later be called the RUE group appeared, namely after the name of the company RosUkrEnergo. The RUE task was to import and export Turkmen gas bought at a very cheap price and to resell it to the EU at market price. RUE, with the important participation of the Russian counterparts, replaced companies that were doing exactly the same business, such as Itera before, and EuralTransGas after. The oligarch Dmitry Firtash appeared then as one of the most influential and big players on the scene and the RUE group, together with Ivan Fursin, Yuri Boyko or Sergiy Lyovochkin. Due to the nature of their business, this group was considered as the most “pro-Russian” among all of them.

At the 2004 Presidential elections, the Orange Revolution braked out with the deep help of a lot of foreign groups linked to the EU and the United States. The disagreement was at its apex and the decomposition of the clan structure due to the weak Kuchma’s position represented a very good opportunity for the opposition to seize the power. However, the goals were the same for the oligarchs: making more and more money by turning west. In exchange for all the help (financial and technical), the western countries opened wide their arms to the capital and oligarchs from Ukraine. At the same time, the situation in the country was deteriorating with a rampant corruption and a return to the level of violence preceded by the 90’s. This was mostly due to the rapid and extensive rise of the Dnipropetrovsk groups, among them Yulia Tymochenko becoming quickly one of the most powerful inside the group. This was also the first time where justice started to be used to help or avoid raiding operations, such as the “Kolesnikov case” or the “Kryvorizhstal case”.

During the second half of the Yushenko Presidency, the group issued from the Orange Revolution started to fight between themselves. Yushenko was strongly backed up by Petro Porochenko and his Ukrprominvest holding and Tymochenko was supported by the Privat Group of Kolomoisky and Bogolyubov, but also by Kostantyn Zhevago and Taniel Vasadze. In 2006 and 2007, Ukraine was in constant political turmoil, leaving the path to the groups linked to the opponent Viktor Yanoukovich. The Party of Region was supported by almost all the other groups who were once evinced of lucrative businesses by the Tymochenko bloc. However, among the most ancient supporters of the Party of Region, the richest oligarch of Ukraine, Rinat Akhmetov, is an exception. Given the political uncertainty, every oligarch seemed to support at least one major political figure in each camp in order to



protect his own interests. On the other hand, each political camp was eager to accept the situation because they needed financial and field support and voices to overcome the opponent.

The presidential election of 2010 was the turn back point with Viktor Yanukovitch being elected President. The balance of power shifted again between the different groups but the largest ones were still in charge with a significant loss or gain of power. Having understood the problems of the political shifts in Ukraine, V. Yanukovich tried to verticalize the power and gave a huge advantage to another group, known as “the Family”, where his son Olexandr played a major role. As Ukraine also shifted internationally from the “West” to the “East”, the RUE group also regained some power. This attempt to verticalize the power sources and control both the politics and the business worked for the second election of V. Yanukovich until the events of the Maidan that unfortunately happened in a very tense international environment which resulted in the ongoing Civil War.

The economic downturn of 2009 appears to have resulted in a slowdown in corporate raiding, but this was followed by a sharp rise since the 2010 elections. Slawomir Matuszak reports that the number of complaints filed by businesses with the state anti-raiding committee increased more than tenfold between 2010 and 2011 from 75 complaints to nearly a thousand.

Ukrainian experts estimate the number of raids between 2000 and 3000 a year, with an annual cost to the economy of \$3 billion. They have identified 30 to 50 “raiding groups” who are in the “business” of carrying out raids. And it is reportedly a lucrative business, with success rates above 90% and profit margins of 1000%.

A 2013 study of corporate raiding in Ukraine made by Matthew Rojansky⁴⁶ distinguished four main techniques, often used in tandem by Ukrainian raiders:

1. Forced bankruptcies where the raider first creates problems for the business, and then takes advantage of them to seize control.
2. Acquiring a minority share in a company and then turning it into majority “ownership” by means of fraudulent documents, bribed court decisions, or other forms of pressure.
3. Bribing judges to impose huge fines on companies, and then taking over the company to force payment.
4. Extortion, using a variety of threats-- ranging from inspections, denials of permits and licenses, tax exactions, and criminal prosecution-- to overt violence, in order to force a change of ownership.

Raiding can be found in every sector of the economy, in large enterprises and small. Rojansky reports that it is less common in high tech sectors, such as IT, where the employees are the main assets. Much of the raiding appears to be

⁴⁶ Corporate Raiding in Ukraine” IREX Scholar Research Brief, Matthew Rojansky, Kennan Institute, July 2013

concentrated in sectors with expensive physical assets, such as land, machinery, and buildings, and with a large and steady cash flow. These include, in particular, extractive industries, the food industry, banking industry, large factories, and successful retail outlets such as shopping malls, restaurants, and hotels.

The media industry is also subject to rapid and sometimes concerning changes as presented below.

The energy sector in Ukraine, in the current context, needs also to be analyzed in regards of the changes in Ukraine's energy policy since President Yanukovich began his term. Many analysts see a "European" tilt to Ukraine's energy policy under President Yanukovich, with the decisions to join the European Energy Community, and to move forward with the privatization of local gas and electric distribution companies; to lift Naftohaz's import monopoly and import gas from western neighbors and to work with western companies to develop shale gas and other non-traditional gas sources. But all of these decisions have paid off handsomely for the oligarchs that support the President.⁴⁷

Through the 2011-12 privatizations of local electricity-generation stations, for instance, the company DTEK Corporation won control of four local thermal power plants in a tender process that had no other viable bidders. This transaction awarded M.Akhmetov's companies the control over four of the six thermal generating companies in Ukraine which produce more than 30% of the electricity consumed in Ukraine, as well as electricity that is exported to the EU.⁴⁸

This, in turn could either protect the system from Gazprom – or deliver it into their hands.⁴⁹ While oligarchs linked to President Yanukovich's "Party of Regions" have benefited from these decisions, a whole new group of beneficiaries have also arisen since 2010. One of the most visible signs of shift of power has been the meteoric rise of M. Serhey Kurchenko, a 27-year-old businessman with close connections to M. Oleksandr Yanukovch (see below page 50 for details).

In the meantime, the Privat Group owned mainly by MM. Kolomoisky and Bogolyubov has been involved in a clamorous raiding accusation regarding the Ukrainian subsidiary of the Swiss company SWISSPORT and the refinery of Kremenchug against the interests of the Russian company TATNEFT.

⁴⁷ "Kyiv's gas strategy: closer cooperation with Gazprom or a genuine diversification?" by Arkadiusz Sarna in Eastweek, Center for Eastern Studies, Warsaw, 7/15/2013 (www.osw.waw.pl)

⁴⁸ Slawomir Masuszak, "Akhmetov's expansion onto the Ukrainian electricity market" Eastweek, 1/18/2012.

⁴⁹ Arkadiusz Sarna, "Dmytro Firtash's companies are monopolizing the retail gas market in Ukraine", EastWeek, 10/24/2012.

2.1 Public corruption

Understanding public corruption is crucial to gaining an understanding of the challenges the country faces. Corruption and among it, public corruption, is one of the heaviest challenges of any government that impacts all levels of State's institutions, but also its own stability and democracy.

Former President Yanukovitch told in a meeting of the World Economic Forum (WEF) in Kiev, in early November 2013, that he intends to ensure a tough anti-corruption policy for the country. Indeed, "Since 2011, a series of steps has been made in order to establish modern preventive legislation.

In 2013, 4 anti-corruption laws that fully meet European standards were adopted," the Head of State said. "The most difficult yet the one of the most principled tasks of the nearest future is bringing order to public purchases, particularly making the legislation transparent, and creating conditions for foreign partners to enter this market."

OCO distinguishes between the "low level public corruption" and the "high office public corruption" which often collide with "conflicts of interests". The history of Ukraine is strongly linked with both challenges. Indeed, Ukraine is the only country to have two recent Prime Ministers imprisoned for corruption, fraud, and money laundering, a subject we shall return to shortly.

2.1.1. Public agent corruption in Ukraine

Public agent corruption is statistically documented and fought by authorities, with different successes. Statistics shows the following relevant data:

1. Misappropriation, embezzlement or propriety fraud by abuse of authority: -26.1% (5998 cases in 2012)
2. Abuse of authority: -57% (1829 cases in 2012)
3. Bribery: -32.3% (1972 cases in 2012)

Ukraine has historically been characterized by widespread conflicts of interest in high levels and in the management of public finances due to a high impact of oligarchic groups on state decision-making. Particularly, the public procurement process and public access to information has been widely criticized by civil society, organizations and investigative journalists, who exposed critical irregularities in the procurement process and an extensive use of front/shell companies by bidders and private-public owned enterprises.⁵⁰

⁵⁰ Portal on Central Eastern and Balkan Europe, *Corruption and "Rules of the Game" in Ukrainian Economy*, 2013: <http://www.pecob.eu/corruption-ukraine>, accessed 14 October 201. "The Ukrainian watch-dog association *Nashi Groshi* has been following Ukrainian public procurement since 2010. They have found numerous instances in which companies that received public contracts could be traced back through off-shores in Cyprus and the UK to family members of public servants and politicians controlling the public procurement tenders."

In order to address this issue, Ukraine joined the Open Government Partnership and planned to establish an online procurement system for the government agencies and the adoption of a law on access to public information.⁵¹ However, an effective enforcement still requires closing legislative loopholes and an adequate monitoring, transparency, and oversight of public finances.⁵²

2.1.2. Relevant and high-profile corruption criminal cases

See Appendix 8 for further cases

1. Case on Education

The criminal case against the director of the Institute of Education, National Academy of Pedagogical Sciences of Ukraine (Madzihon VM) and his son (Madzihon VV), which demanded that a representative of a limited liability, undue advantage in the amount of 11 million U.S. dollars for assistance in the pursuit of procedures for the preparation and signing of the lease integral property complex of the state, an area of 2.3 sq.m. These persons were detained after receipt of the amount due to a bribe of 800 thousand HRW and 250 thousand U.S. dollars (ongoing appellate review).

2. Case on financial companies

The prosecutor's office in Kyiv in September awarded a notification of suspected bankruptcy administrator (Tolcheyev AU), demanding undue benefit 700 thousand U.S. dollars for the procedure of reorganization and concealing violations of the law in carrying out financial activities of the company. At the direction the suspect got his driver of the illegal benefit of 300 thousand U.S. dollars (investigation ongoing).

3. Case on private company

In March the prosecutor's office in Kyiv, sent the indictment against the board member of a private company "Ukrproftur" (Dzyubak AV), who, while posing as Acting Chairman of the Board, encouraged entrepreneurs to give undue advantage in the amount of 305 thousand U.S. dollars for the question of the transfer of the latter part of the territory leased vehicle maintenance (trial in progress).

⁵¹ Ukraine makes another step towards transparency - The Regional Anti-corruption Initiative (RAI): <http://www.rai-see.org/news/world/2496-ukraine-makes-another-step-toward-transparency.html>, accessed 13 October 2013

⁵² EC Progress Report 2011 in Ukraine: "The amendments to the Public Procurement law adopted in July 2011 introduced framework agreements and abolished prior approval for single source procurements by the Ministry of Economy. However the amendments did not address two key issues: namely the proper definition of the concept of contracting authorities or entities which are bound by the law (state enterprises, in particular, are excluded from the scope of the law) and the exclusions under the EU procurement *acquis*. Technical assistance from the EU has helped the government in improving the new legislation."

4. Fake bankruptcy

Investigation Department of Interior Ministry of Ukraine in Odessa region reported suspected bankruptcy administrator (Lyaskovtsyu OV), who demanded and received undue benefit of 150 thousand dollars for failure to take action in meeting the requirements of lenders in consideration of the proceedings in the bankruptcy case (investigation ongoing).

5. Local corruption

Kitsman Chernivtsi oblast District Court considered the criminal proceedings against the head of the village council Kamyansko Storozhinetskiy area (Gidora VI) that abuse of authority, demanded and received illegal benefits from a private entrepreneur in the amount of 130 thousand U.S. dollars for the lease of land areas of water resources (trial in progress).

6. Local transportation corruption

Prosecution of Zaporozhye region this year sent to court indictment on organized group consisting of Melitopol Mayor, two deputies and two other persons. Between 2011-2012, the group demanded and received undue benefit of over 1.5 million managers of enterprises engaged in the carriage of passengers (trial in progress).

7. Local corruption case

In the Lviv region this year a pre-trial investigation was completed in criminal proceedings against the Director of the Lviv branch of the auction, who, together with officials of Mykolayiv City Council received from the proprietor undue benefit of \$ 1 million for assistance in redeeming the land area of 3.42 hectares for the construction of foundry through fraudulent auction (trial in progress).

8. Local banking fraud case

Prosecution of Sumy in August of this year, the court sent the indictment on the head of a Kharkiv branch of PJSC "Creditprombank" that abuse of authority and illegal instruction got the cashier department to issue cash from the cash register for \$1 million without any documentation and transferred these funds to the Director of a Limited Liability Company (trial in progress).

9. Corruption in the health sector

In Lviv the head of two specialized commissions of the regional center of medical-social expertise in collusion with doctors arranged systematically unlawful benefit for a disability group due to illness. While documenting members of criminal groups recorded 97 episodes of obtaining undue advantage in the amount of 166 thousand. Criminal charges were brought against 10 health workers whose property seized worth over 2.3 million (trial in progress).

10. Corruption and raiding on land

Prosecution of Sevastopol, in July the court sent the indictment concerning the sector head of the Sevastopol City Council, who through abuse of office, helped illegal alienation of ownership community of the land area of 13 hectares worth nearly 6.5 million (trial in progress).

11. Corruption on a court arrangement process on propriety decision

The Prosecutor of the Autonomous Republic of Crimea in August submitted to the court indictment in relation to the village council deputy Novofedorivskoyi Saki district and village heads, who demanded that the citizen undue benefit of \$ 225 thousand dollars for influence over deputies and a positive decision on granting the ownership of land (trial lasts).

12. Health care fraud by organized group

Dnipropetrovsk Oblast Prosecutor's Office sent to the court indictment in relation to head of the Department of Labour and Social Welfare of the City Council, which is composed of an organized group, by committing a series of crimes officers took over the local budget totaling \$ 1.3 million (trial in progress).

13. Drug trafficking

By decision Railway District Court of Simferopol on 09/02/2013 found guilty and sentenced to 6 years in prison (with disqualification to hold office for 2 years in law enforcement and forfeiture of property, deprivation of the special title of "Captain Internal Service"), head of the department of social and psychological services Simferopol penal colony № 102 Levaka AL into the transfer of sentenced purpose of sale of drugs.

14. Drug trafficking racket and protection by specialized local officer's group

On 10/04/2013, Shevchenko district court of the city was sentenced to 7 years in prison (with disqualification to hold positions in law enforcement, confiscation of property and deprivation of the special title). Chief of the fight against drug trafficking Chervonograd MW PG MVDU in Lviv Oblast tip B. V., who demanded and received from illegal drug users benefit totaling over 130 thousand. For "kryshuvannnya" their activities related to illegal sale of narcotics.

15. Public official corruption on private business

On 04/09/2013, Lviv Oblast Court of Appeal sentenced the deputy head of the Lviv regional territorial office of the Antimonopoly Committee of Ukraine V. Savchuk (who demanded and received undue benefit by reducing penalties on private individual entrepreneur, in connection with the commission of violations of the law of unfair competition): up to 5 years imprisonment with deprivation of the right to occupy positions related to the implementation of organizational and

administrative responsibilities in the executive branch, for 3 years and confiscation of all property belonging to him. And also denied 7 rank 4 categories of civil servant.

2.1.3. Government responses

The courts forwarded the information about the indictments concerning persons who have committed criminal corruption offenses.

Number	Categories of persons	Number
1	Total state employees	252
2	State officials Category 3	11
3	State employees category 4	28
4	State employees category 5-7	213
5	Officials of local governments	142
6	State Tax Service	42
7	Tax Police	13
8	State Penitentiary Service	27
9	Customs Service	19
10	State Border Service	10
11	Bodies and civil defense units	24
12	Of Internal Affairs	182
13	Professional judges	13
14	Armed Forces of Ukraine	58
15	Officers and employees of other public authorities	188
16	Persons providing public services	86
17	Officials of legal entities of public law	161
18	Persons who perform organizational and administrative or housekeeping duties in legal entities of private law	242

In 2012, **663** sentences (ruling) for corruption of Ukrainian courts **came into force**, of which **567** at least, convicted **94** criminals defendant's of which the proceedings have been definitively closed.

In particular, the following decisions went into force on **106** sentences Regulation's servants, **93** local government officials, **22** - Ministry of Interior, **21** - State Tax Service, **8** - Tax Police **16** - Customs Service, **71** - State Penitentiary Service, **10** - Border Service, **6** - Units of civil protection, **85** officers and employees of other public authorities, **23** officials who provide public services, and **62** other legal entities of public law.

This same year in the proceedings of the corruption offenses established **damages** for a total amount of **254.79 million USD**. For the completed investigation proceedings, the courts decisions **refunded 26.6**

million USD mostly in seized assets belonging to the convicted persons and entities.

On the amount of pending 275.3 million USD from previous court decisions, the sums of 18.7 USD have also been seized in form of property, cash, securities, and foreign currencies.

2.1.4. State of combating organized crime and corruption in 2013

This yearly analysis (see Appendix 7 for similar figures in 2012) produced by the General Prosecutor Office of Ukraine highlights some key facts and trends over the years. Analysis of combating organized crime shows that due to these organizational and practical measures there have been some positive developments in this area.

“The General Prosecutor of Ukraine introduced a balanced approach in regard of the incrimination of qualified signs of the commission of a crime within organized groups and criminal organizations, preventing the occurrence of such qualifications for insignificant facts. As a result, law enforcement authorities in the current year, destroyed 188 (274) criminal gangs, including 27 with corrupt connections.

Most of the groups exposed were in Donetsk (14), Odessa (14), Luhansk (12), Zaporizhia oblasts and Crimea (10). A third of the neutralized groups (67 of 188) operated in State agencies and administration with corrupt and interregional, transnational and international ties, in the sphere of economy.

Overall by law enforcement departments to courts were sent 197 acts criminal indictments proceedings and charges were brought against 709 members of criminal gangs that committed 1,500 criminal offenses. Of which “Prokuratura” completed investigations in 19 proceedings, investigative units MIA - 160, SBU – 11, Ministry of income and charges Ukraine - 7.

In proceedings of the categories were identified 592 million USD. of property damage, hereby were withdrawn and recovered funds and assets of 111 million. In order to ensure reimbursement, the property of the suspects, worthing over 542 million USD, were seized and claims were filed against them for the amount of 171 million USD. Thanks to the effective implementation by the prosecutors of the constitutional functions of public prosecution in the courts of the enactment of sentences 191 criminal proceedings were examined in this category.

Most cases were in Donetsk (20), Luhansk (17), Kharkiv, Poltava (14) and Odessa (15) regions. Was provided appropriate approach to penalize signs of organized crime, which was confirmed in 187 (98%) cases examined by courts, which is one of the main criteria for evaluating the work of the special forces, investigators and prosecutors.”

Based on 6 months of the year, the prosecution of criminal proceedings initiated 1008 cases for corruption. 51.5% of the cases were law enforcement officers who committed 637 corruption's offenses. More than half of the accusations directed to the court acts in this category, the remaining of bribes (243).

In addition, the court directed: 109 indictments acts of abuse of power or position (art. 364 of the Criminal Code of Ukraine); 42 the misappropriation, embezzlement, or obtaining property through abuse of office (§ § 2 - 5 Article 191 of the Criminal Code of Ukraine); 22 of trading in influence (st.369-2 of the Criminal Code of Ukraine); 10 the facts of abuse of power or authority (st.365 Criminal Code of Ukraine); 70 of the commission of other crimes of corruption.

The efforts of investigators and prosecutors were aimed primarily to detect corruption offenses committed by officials serving in the higher echelons of government, local government, law enforcement, and regulatory agencies.

Categories of public officials prosecuted for corruption offenses

Subjects under investigation	2013
1. Deputy Regional Council	1
2. Government	62
3. Central Administration	24
4. Local Administration	9
5. Armed Forces of Ukraine	41
6. Tax Service	18
7. Tax Police	7
8. Police Service	15
9. State Border Service	7
10. Ministry of the Interior	126
11. Judges	11
12. State Penitentiary Service	15
13. Bodies and Civil Defense units	16

Administrative charges protocols on corruption brought the prosecution:

- 25 civil servants (8,7%), of which 2 Category 4 (2 8.6%) and 2 of 3 – 5 - 7 category (31%), 9 employees of district administrations (24.3%);
- 52 officers and particularly local authorities and (3 5.6%), of which 27 employees category 4 (3 0%) and 2 5 – 5 - 7 category (4 5.5%);
- 27 officials of the Interior (79%);
- 14 officers of the State Penitentiary Service (5 6%);
- 16 officers of Armed E il Ukraine (5 9, 3%);
- 2 officials and tax authorities (1 6, 7%);
- 8 officers and departments of Civil Protection (3 3, 3%);

- 33 officers of service and other public authorities (3 5.9%);
- 5 governors and members of legal entities of public law (43%);
- 23 people perform organizational and administrative or housekeeping duties in legal entities of private law (6 3, 8%);
- 12 officers and individuals for receiving improper benefit from them other entities responsibility (66.6%).

2.2 Political Leaders, Oligarchs and Organized Crime

In Ukraine, as in many other post-Soviet states, the alliances between organized crime and the political elite that began in Soviet times have continued and strengthened in the intervening years, and today still play a key role in economic, political, and foreign policy making at all levels. But Ukraine differs from some of its neighbors in one important respect: in Ukraine, politics remain contested at the top.

As a result in Ukraine, unlike in Russia, officials at the highest level, such as ex-Prime Ministers who have lost at the ballot box, or who have gotten on the wrong side of the president, have been prosecuted on charges of corruption. The best known of these have been former prime ministers Pavlov Lazarenko and Yulia Tymoshenko and Interior Minister Yuri Lutsenko (see details in Appendix 1), but there have been prosecutions of lower level officials as well.

This public settling of accounts has greatly enhanced our understanding of corrupt interactions between politicians and organized crime at all levels. Interestingly, it has helped illuminate the international links of Ukrainian crime, and the financial transactions involved, as Ukrainian law enforcement has worked diligently with foreign counterparts to uncover these links, and to learn the latest techniques for “following the money” in corruption and criminal cases.

It needs to be emphasized, however, that “justice” has been applied with extreme political selectivity, and it is not clear that these individuals were in fact any more corrupt than their successors or predecessors. More decisive than the degree of their corruption is the fact that they found themselves on the losing side of a political battle. And the list of those who have remained unprosecuted despite credible charges of corruption and malfeasance is a much longer one.

2.2.1. The Lazarenko case

The Lazarenko case is worth looking at in greater detail, since it is the best-documented case of corruption at the highest levels of the Ukrainian government, and its ramifications continue to this day. Pavlov Lazarenko was a leading member of the Dnepropetrovsk clan, starting out as a tractor driver and then moving rapidly up the ladder to become President Kuchma’s



representative in Dnepropetrovsk, governor of the region, First Deputy Prime Minister in charge of energy issues, and finally, in 1996, Prime Minister.

Reports of corruption followed Lazarenko throughout his career, from his early years in agriculture through his tenure as Prime Minister, but all investigations were squelched as long as he was in favor with President Kuchma.⁵³ But in the summer of 1997, Kuchma and Lazarenko had a falling out. Lazarenko was forced out of office and decided to challenge Kuchma for the presidency. He thereupon formed an opposition party (Hromada) and won election to Parliament, gaining immunity from prosecution.

By 1999, however, under threat of losing his immunity, he fled to Switzerland holding a false passport, where he was charged with money laundering and jumped bail. Only then did the Ukrainian government open a criminal investigation into his case, eventually assigning 40 investigators, once it became an international scandal. Many observers believed that Kuchma's hesitation to press charges against Lazarenko, even after they became political enemies, stems from the fact that Kuchma and his family members were deeply embroiled in business dealings with Lazarenko.

One example cited is the Kyiv Star cell phone company, jointly owned by Kuchma's wife and daughter, Lazarenko's former body guard, and several other associates, that came out of nowhere in 1997 to win a closed tender for a valuable GSM monopoly. After jumping bail in Switzerland, Lazarenko used a false passport to enter the U.S. and sought political asylum, but U.S. authorities instead indicted him on 53 counts of money laundering, conspiracy to commit money laundering, wire fraud, and interstate transportation of stolen property.

In 2004 during a lengthy trial in California, the judge threw out 24 of the counts and the jury found him guilty on the remaining 29. Five more years of legal wrangling ensued, until in 2009 he was finally convicted on eight counts of money laundering and sentenced to 97 months in prison, a fine of \$9 million and forfeiture of \$22 million in assets. Litigation continues over approximately \$250 million in assets that were unearthed during the course of the investigation, and have been frozen in accounts in the U.S., Antigua, Switzerland, Liechtenstein and Lithuania.⁵⁴

The trial did not produce a full accounting of Lazarenko's illicit activities, since it only considered criminal actions whose profits could directly be linked to money that was laundered through U.S. banks. The judge dismissed many of the charges, ruling that they were either not proven to be crimes according to Ukrainian law at the time and/or could not conclusively be tied to profits that had been laundered through U.S. banks. Lazarenko pled not guilty to all charges, but it is not clear whether the defense disputed the accuracy of the

⁵³ Much of the analysis in these two paragraphs comes from "The Case of Pavlo Lazarenko: a study of High Level Corruption" Part I and Part II, by Roman Kupchinsky, published in *The Ukrainian Weekly*, Feb 17 and Feb 24 2002.

⁵⁴ Jason Felch "To Catch an Oligarch " in San Francisco Magazine, Oct. 4 2004. (www.centerforinvestigativereporting.org/articles/to-catch-an-oligarch), see also "The Case Against Pavlo Lazarenko, BBC News, August 25 2006.

accusations, since the legal maneuvering centered on more technical questions.

Still the basic pattern of Lazarenko's activities emerged clearly, even if the full extent of his profits did not. He essentially extorted a share of the profits (in some cases 10%, in some case 50%) from transactions and businesses for which he, in his official capacity, was able to provide contracts, permits, licenses, or government guarantees. The transactions that figured in the U.S. trial allegedly netted Lazarenko approximately \$114 million over 2 years, although his overall profits may have been considerably larger.⁵⁵

The money and assets were registered in the names of associates and family members and the profits were sent out of the country and laundered through a variety of banks in numerous countries including the U.S. The individual cases referred to during the trial ranged over a wide number of sectors, including imports of cows, pre-fabricated houses, gas and metal trading. The indictment noted that several associates of Lazarenko had amassed multi-million dollar fortunes through their association with Lazarenko. Those cited included Itera founder Igor Makarov and Yulia Tymoshenko.⁵⁶

Although Lazarenko's links with organized criminal groups were not investigated in the case, some information emerged during the proceedings. One of Lazarenko's closest associates was Petr Kyrychenko, who had been arrested along with Lazarenko in the U.S. but won a shortened sentence and the right to remain in the U.S. by becoming a cooperating witness for the U.S. and testifying against Lazarenko.

During the proceedings it became known that in 1995 Kyrychenko had been arrested in Poland and charged with possession of a gun that had been used in a 1994 organized crime killing. However, because Kyrychenko had the official position of "Advisor" in Lazarenko's government at the time, the Polish government allowed him to be released on bail. Kyrychenko then jumped bail, went to the U.S. and continued to work on Lazarenko's behalf.⁵⁷

For today's Ukraine, the most explosive aspects of the charges against Lazarenko concern his business relations with Yulia Tymoshenko, a longtime political ally, who at that time was the president of United Energy Systems of Ukraine (UESU), a natural gas distribution company that Lazarenko was involved with. As Deputy Prime Minister (1995-6) Lazarenko was in charge of the energy sector, and "reformed" the natural gas importation and distribution system to provide monopoly rights for individual companies to purchase natural gas from Russia's Gazprom and re-sell it to specific regions of Ukraine.

⁵⁵ The World Bank estimates that Lazarenko embezzled between 114 and 200 million dollars over the course of two years (1996-97) from the Ukrainian government, a sum which, on an annual basis represents between 0.2 and 0.4 % of the country's GDP. This report, which cites Transparency International statistics, puts Lazarenko at #8 of the world's 10 most corrupt leaders, but it is based on very incomplete data. See "Stolen Asset Recovery Initiative: Challenges, Opportunities and Action Plan, June 2007 p11 by the World Bank.

⁵⁶ Lazarenko, USDDC Amended Complaint June 30 2005,pdf (See www.star.worldbank.org/corruption-cases/node/18566)

⁵⁷ See James Kostiw, "Pavlo Lazarenko: Is the Former Ukrainian Prime Minister a Political Refugee or a Financial Criminal?" in *Organized Crime and Corruption Watch*, published by Transnational Crime and Corruption Center (TraCCC), Volume 2, Number 2, Summer 2000.



UESU was awarded the lucrative monopoly for the Dnepropetrovsk region from 1995-1997. According to the court documents at Lazarenko's 2004 trial in California, in 1996, Lazarenko obtained for UESU a Ukrainian state guarantee to pay for \$200 million of gas from Gazprom. In 1995, according to the documents Tymoshenko had created a separate company, United Energy International Limited, (UEIL) which was given title to the gas from Gazprom, and received the payments from the customers who received the gas, instead of UESU.

All total, the complaint recorded, over the course of six months in 1996, that UEIL transferred approximately \$140 million in payments to Somolli Enterprises, a Cypriote company controlled by Tymoshenko. UESU, UEIL and Somolli Enterprises in turn paid Lazarenko nearly \$100 million during 1996 and 1997. Meanwhile, since UESU defaulted on its payments to Gazprom for the gas, the Ukrainian state ended up footing the bill.⁵⁸

⁵⁸ Lazarenko US DOC Verified Complaint May 14 2004 pdf.

2.3 The Energy Sector in Ukraine

It is not surprising that gas trading features prominently in the Lazarenko/Tymoshenko saga, since the energy sector has been –and remains— one of the most corrupt sectors in Ukraine, and also one that is highly political, in that gas supplies and payments play an important role in Ukraine’s relations with Russia and the EU, and in the EU’s relations with Russia. But it is also political in the sense that the highest level of Ukraine’s leadership decides which oligarchs control the gas and oil imports and who gets to make money off it.

2.3.1. *Ukraine energy policy and private profits*

Ukrainian energy policy is often analyzed in geopolitical terms, i.e. Russia versus Europe or Russia versus Ukraine. But it needs to be emphasized that throughout Ukraine’s existence, energy policy has been shaped by the profits of individuals, not the needs of the state.

Politicians talk about drawing a line in the sand to defend Ukraine’s sovereignty, or not allowing Gazprom to take over Ukraine’s gas distribution network, but Ukrainian and Russian oligarchs work together closely to sew up profits when they get a chance, and when they are in conflict, it is mainly because of corporate – not national interests.

This is as true today as it was in the 1990s, when Yulia Tymoshenko’s UESU got its start, or in the 2000s when Dmitry Firtash, worked hand in hand with Russian-Ukrainian organized crime boss Semyon Mogilevich, to siphon off the profits of the gas trade via a series of opaque intermediary companies, as described in an earlier section of this paper.

It is in this context that we must analyze the changes in Ukraine’s energy policy since President Yanukovich began his term. Many analysts see a “European” tilt to Ukraine’s energy policy under President Yanukovich, with the decisions to join the European Energy Community, to move forward with the privatization of local gas and electric distribution companies, to lift Naftohaz’s import monopoly and import gas from western neighbors, and to work with western companies to develop shale gas and other non-traditional gas sources. But all of these decisions have paid off handsomely for the oligarchs that support the President.⁵⁹

Through the 2011-12 privatizations of local electricity-generation stations, for instance, Rinat Akhmetov’s DTEK Corporation won control of four local thermal power plants in a tender process that had no other viable bidders. This transaction gave Akhmetov control over four of the six thermal generating companies in Ukraine which produce more than 30% of the

⁵⁹ “Kyiv’s gas strategy: closer cooperation with Gazprom or a genuine diversification?” by Arkadiusz Sarna in Eastweek, Center for Eastern Studies, Warsaw, 7/15/2013 (www.osw.waw.pl)



electricity consumed in Ukraine, as well as electricity that is exported to the EU.⁶⁰

The 2012 privatization of regional and local gas distribution companies, meanwhile, benefitted Dmitry Firtash, who won control of 14 out of the 17 local companies that were tendered. As a result, out of 25 local gas companies in Ukraine, Firtash fully owns 14 and partially controls an additional 7. As noted earlier in this paper, Firtash also benefited from a decision, apparently made around the same time, to break the monopoly of Naftohaz, the state gas agency, to import natural gas from other countries.

Some analysts speculate that Firtash is building up his own company, in order to bankrupt Naftohaz and then take over the entire gas transport, storage and distribution system. This, in turn could either protect the system from Gazprom – or deliver it into their hands.⁶¹

While oligarchs linked to President Yanukovych's "Party of Regions" have benefited from these decisions, a whole new group of beneficiaries has also arisen since 2010, popularly known in Ukraine as "the Family". These are individuals, some from Yanukovych's native village of Yenakieve, and others more closely associated with Yanukovych's son Oleksandr, who have seen a dramatic rise in their economic fortunes over the last three years.

2.3.2. "The Family" influence in the sector

"The Family" as they are known in Ukraine, includes a group of associates, many with origins in Yanukovych's hometown of Yenakiyev. Most frequently cited is: Yuri Ivanyushchenko (MP). The most visible manifestation of the "Family's" activities has been the meteoric rise of Serhey Kurchenko, a 27-year-old businessman with close connections to Oleksandr Yanukovitch, who some believe to be simply a frontman for "The Family's" real owners.

Kurchenko's rapid enrichment was chronicled in a special report in 2012 entitled "The Gas King of All Ukraine" by *Forbes Ukraine*⁶² – a publication that was later acquired by Kurchenko's company.⁶³ The report traced the origins of Kurchenko's company Gaz Ukraina 2009 to a series of 50 + companies, many just shell companies, ostensibly domiciled in Kharkov and Simferopol, that won lucrative government tenders.

Forbes reported that they have mushroomed since the 2010 elections, buying and selling natural gas, oil and oil products, and making large profits by importing gasoline duty-free for re-export, and then selling it domestically, thereby undercutting their rivals and costing the state millions in lost customs duties. By 2012, according to Forbes, the company had become one of the

⁶⁰ Slawomir Masuszak, "Akhmetov's expansion onto the Ukrainian electricity market" Eastweek, 1/18/2012.

⁶¹ Arkadiusz Sarna, "Dmytro Firtash's companies are monopolizing the retail gas market in Ukraine", EastWeek, 10/24/2012.

⁶² "Rassledovaniya: Gazovyy Korol Vseya Ukrainy" by Sevgil Museyeva and Aleksandr Akimenko, Forbes Ukraine, November 12, 2012.

⁶³ "The Gas King turned Media Mogul" The Economist, June 28 2013

country's largest petroleum product importers, and owner of a chain of 150 gas stations in Ukraine and Germany.

The scope of these profits became visible in 2012, when Kurchenko's company, now re-named VETEK (East European Fuel & Energy Group) went on a buying spree. In the space of 12 months, VETEK bought over a billion dollars' worth of assets: the Odessa Oil Refinery (\$300 million); the Kharkov Metallist Football team (\$300 million), the Kharkov Stadium (\$70 million), and Ukraine's second largest media group UMH Media holdings (\$400-500).⁶⁴

This apparently was not the full extent of VETEK's ready cash, since other upcoming investments had been announced, including expanding VETEK's chain of gas stations and building a basketball arena for the 2015 European Basketball Championships in Kharkov. The decision to allow private companies to import natural gas directly has also benefited VETEK, which announced plans to buy 90 million cubic meters of gas from Hungary.

But some observers believe that the biggest prize that "The Family" intends to benefit from involves the contracts recently signed with Shell, Chevron, and ExxonMobil to explore non-traditional gas deposits in Eastern Ukraine, Western Ukraine, and the Black Sea region. In each case, the Ukrainian "partner" is a small, unknown company that was recently incorporated.

The Anti Corruption Action Center of Ukraine (ANTAC) investigated the companies, and tried to track down their ownership structures. As it is often the case in Ukraine, they were unable to find the actual owners, and the only address they could track down turned out to be a karaoke club in the Kiev suburbs, but there were enough overlaps in their directors to lead to the conclusion that they were set up to shelter the identities of the same people.⁶⁵

⁶⁴ "In Ukraine it Grows on Trees" by Sergey Leshchenko, in Open Democracy 8/20/2013

⁶⁵ "Kings of Ukrainian Gas" (parts 1 & 2) at www.antac.org.ua/en/2012/09/kings-of-ukrainian-gas-2/. Also see "First steps into the unknown. The prospects of unconventional gas extraction in Ukraine" OSW (Center for Eastern Studies) Warsaw, commentary , 4/27/2013. The authors at OSW believe that the banking arrangements outlined in the contract are a more likely vehicle for elite enrichment than the shares given to the intermediary companies, which "only" amount to 10% of the profits.

2.4 Corporate Raiding

An analysis from Transparency International Ukraine presents some key issues about the corporate raiding problem⁶⁶:

"In the Resolution by the Cabinet of Ministers of Ukraine On Approval of the Declaration of Objects and Missions of the Budget for 2008 (The Budget Declaration), 'raider attack' is defined as "disposal of the state-owned property and corporate rights other than following the privatization proceedings or illegal seizure of a company". However in Ukraine, as well as in Russia and in other transitional economies of Eastern Europe, the phenomenon is not limited exclusively to the hostile takeover of state property, state-owned companies and enterprises.

In practice, hostile takeovers also threaten private enterprises, real estates, land or any valuable assets whether they are with domestic or foreign interest, thus, they have extremely negative effects on the country's investment climate and sets back the inflow of FDI as well. Illegal features such as malicious intent, corrupt practices, bribery, blackmail are in general typified of Ukrainian raider attacks and also supported by fake court decisions and the assistance of different law enforcement agencies in most of the cases.

As state organs such as courts and law enforcement agencies are deeply involved in the abusive activities, the existence of the 'raiding' problem can be also considered as manifestation of the high level of lawlessness in the public administration, inadequate government regulation of the business sector and in general the lack of rule of law in the country.

Thus, in order to implement effective measures combating raider attacks, Transparency International advises to apply a blend of corruption and risk assessment tools for business environment and enterprise performance both for government bodies and members of the private sphere with the objective of enhancing transparency in financial regulations and creating adequate anti corruption instruments tailored to/for the Ukrainian conditions."

A 2013 study of corporate raiding in Ukraine by Matthew Rojansky distinguished four main techniques, often used in tandem by Ukrainian raiders:

1. Forced bankruptcies where the raider first creates problems for the business, and then takes advantage of them to seize control.
2. Acquiring a minority share in a company and then turning it into majority "ownership" by means of fraudulent documents, bribed court decisions, or other forms of pressure.
3. Bribing judges to impose huge fines on companies, and then taking over the company to force payment.
4. Extortion, using a variety of threats-- ranging from inspections, denials of permits and licenses, tax exactions and criminal prosecution-- to overt violence, in order to force a change of ownership.

⁶⁶ "Raider Attack in Ukraine", Transparency International Ukraine, 2012, www.ti-ukraine.org

2.4.1. *Raiding and the Media*

In most sectors, simple profits are the motivation for corporate raiding, but in the media, there has been a number of recent raids and takeovers which has led observers to conclude that the goals are more political: to close down media outlets that are unfriendly to the ruling party of regions, and to ensure, in the run-up to the 2015 presidential election, that “the Family” will have its own media outlets.

Over the last year, a major shakeup has been underway in the Ukrainian media. In February 2013, Dmitry Firtash acquired Ukrainian Inter Media Group Company, the largest media holding company in Ukraine, from fellow oligarch Valery Khoroshkovsky, reportedly for \$2.5 billion.

It is not clear whether this should be classified as a “raid” although some media reports claim that Khoroshkovsky was not a willing seller, that the television stations which reached 97 % of Ukraine’s territory had recently begun to take an anti-government stance and that the actual sales price was much lower than the one reported in the press.⁶⁷

But whatever the circumstances, the result was that a close ally of the Yanukovitch Government gained control of a key segment of Ukraine’s media. Then in June 2013, Serhey Kurchenko, a close associate of Oleksandr Yanukovich, bought United Media Holding (UMH) for approximately \$500 million.

The holding company includes a number of radio stations, internet news sites, newspapers, and magazines, the best known of which is probably *Forbes Ukraine*, a periodical that had published an extremely unflattering account of Kurchenko’s rise to riches.⁶⁸

2.4.2. *The KRIVORSTHAL case*

The State Property Fund of Ukraine (SPF) had set a bidding floor of \$714 million for a 93.02 percent stake in the company, and ultimately awarded the sale to newly-created Investment-Metallurgical Union (IMU), an alliance of Rinat Akhmetov’s SCM and Interpipe Group, owned by then-president Leonid Kuchma’s son-in-law Viktor Pinchuk, for \$800m.

Foreign investors first cried foul when their (higher) bids were rejected on technicalities, contending that the terms of bidding were designed to exclude foreign firms. For example, a bidder had to prove a controlling interest in a profitable coke facility in Ukraine, which had been in operation no less than three years and with a productive capacity of not any less than a million tons

⁶⁷ www.kyivpost.com/content/ukraine/khoroshkovsky-sells-inter-channel-to-firtash-319674.html See also “Dmytro Firtash takes over one of Ukraine’s main TV stations” by Tadeusz Iwanski in Eastweek 2/6/2013 Center for Eastern Studies, Warsaw Poland.

⁶⁸ “Nouveau Riche Kurchenko Buys Large Ukrainian Media Holding, Jamestown Foundation.blogspot.com, June 27 2013.

of coke per annum. Only the Industrial Group (Industrial Union of Donbas) and the IMU met this requirement⁶⁹.

The June 2004 privatization was ultimately overturned by the court at the initiative of newly-elected President Yushchenko in June 2005. In October 2005, non-Ukrainian company Mittal Steel acquired Kryvorizhstal for \$4.8 billion – six times the price originally paid by IMU.

2.4.2. The SWISSPORT case

In 2006 Swissport entered the Ukrainian market by acquiring shares in a joint venture named Interavia LLC. In the following years, Swissport increased its share in the joint venture from previously 51% to finally 70.6% with the remaining 29.4% held by UIA. Until 2011, when UIA's ownership was sold to private investors with Ihor Kolomoyski and Aron Mayberg at the forefront, Swissport had a very good partnership with UIA (see Appendix 3 for details).

As Swissport Ukraine was successfully growing double-digit every year, investments into the company became necessary to support further growth. UIA struggles from the beginning with the ability to meet their pro rata share obligations. Swissport was ready to finance the growth and was expressing its will to further invest in the company's future and to ensure continuous growth by financing the company even beyond obligations. Based on mere discussion during a Participants' Meeting about a potential future capital increase, UIA alleged that Swissport had resolved on a capital increase against the votes of UIA and therefore violated UIA's minority shareholder's rights and went to court.

The capital increase has never been resolved by Swissport and to date, UIA was never able to give evidence to their allegation. Nevertheless, the Economic Court of Kyiv, the first instance, ruled against Swissport. The second instance court, the Court of Appeal ruled against Swissport as well, the consequence of which was the immediate loss of Swissport's 70.6% shares in Swissport Ukraine and the control over the company. UIA became the sole owner of the company, which, at that time, had an estimated value of 25 Mio USD. Moreover, the airline owners of UIA managed to convince the court that the 70.6% share in Swissport Ukraine would only be worth 400k USD. This was one of the reasons why Swissport decided to keep on fighting for its business and went to the highest court in the Ukraine, the Highest Economic Court of Ukraine.

2.4.3. The KREMENCHUG/TATNEFT case

Ukratnafta, a company whose key asset is Ukraine's largest refinery in Kremenchuk, was the object of what was so far the most widely publicized dispute between representatives of Russian and Ukrainian capital.

⁶⁹ <http://www.ukrweekly.com/old/archive/2004/250402.shtml>

The company was established in 1994 by the governments of Ukraine and Tatarstan (in the Russian Federation). In 1998, part of the Ukrainian stake was taken over by companies controlled by Russian businessmen. In 2007, Ukraine held 43% of the shares (they were managed by Naftogaz), while the Russian partner (the government of Tatarstan and the companies Tatneft, SeaGroup International and AmRuzTrading) owned in total over 55% of the shares. Furthermore, a 1.2% stake was held by Korsan, a company linked to Privat Group. In 2008, the economic court in Kyiv deemed the takeover of 18.3% the shares by SeaGroup International and AmRuzTrading illegal 48.

The shares taken away from these companies were bought by Korsan. In 2009, the court also ordered that the 28.8% stake held by the government of Tatarstan be taken away 49. A year later, the court's verdict was upheld by Ukraine's Supreme Economic Court. These shares were also taken over by Privat, which – holding in total a 47% stake – began to control the management of Ukrtransnafta 50. Of the remaining shares, 43% are held by Naftogaz and the other 10% by Tatneft.

In retaliation, Tatneft, the key supplier of oil for the Kremenchuk refinery, cut oil supplies. Privat could ensure alternative supplies. Since it controlled the management of Ukrtransnafta (the operator of oil pipelines in Ukraine, which is formally state-controlled), it changed the direction of oil flow in Ukrainian pipelines and started supplying oil to the Kremenchuk refinery from Azerbaijan. This also caused a cut of supplies to the refinery in Odessa, owned by Russia's LUKoil, which had been using these pipelines.

On the 29th of July 2014, the Arbitration Court in Paris awarded the Russian company TATNEFT on the merit a sum above \$100 millions in the case against the Ukrainian state for the illegality of the takeover. TATNEFT decided in fact to sue the Ukrainian state instead of the Private Group and its owners because of the constant turnovers in decisions made by the Ukrainian Courts in the matter since the beginning of the case, effectively showing a deep involvement of the State judicial apparatus in the raiding takeover of the refinery. The Privat Group as well as the oligarch Igor Kolomoisky is abundantly cited in the judgment.

2.5 After the Maïdan and the Spoils of War

As the situation became more and more explosive during the months of April to June 2014, and slightly before the “seizure” of the Crimean peninsula by Russia, the situation completely slipped out of control especially in the eastern Donbass region and the Odessa region. The Civil war started and is still not yet finished.

Two main fronts are open in Ukraine for the Government who tries to face them as it can: the interior front, swiping the remaining of the last Yanoukovitch regime on one side and fueling the war effort on the east on the other side.

The situation has turned more complicated and political since July 2014 with the massive and direct introduction of foreign players in the Ukrainian game. The terms of “political corruption” or even “organized crime” tends to lose their proper sense in a state of war where the rule of law hardly remains.

It is also very difficult to assess corrupt activities as well as criminal activities in such a period because the information is partial, not focused on the topic of interest and subject to heavy manipulation from all parties in war.

However, during these months of situation’s close monitoring, it was possible to gather loads of useful material that went analyzed and cross-checked through a partner’s network for validation.

Some of this material will be presented here with all due reserves and cautions.

2.5.1. The lustration process and derivative

On 16 October 2014, the Law of Ukraine on Lustration no. 1682-VII entered into force. The law establishes the definition of the legal framework for the checks of public officers aimed at the restoration of the government trust and the creation of the conditions of building a new system of state power that could be in line with EU standards. It also establishes a list of positions to which the lustration applies and expressly mentions the person holding managerial positions for at least one cumulative year from the date of the 25th of February 2010 to the 22nd of February 2014 that will be dismissed within 10 days from the effective date of the Law enforcement. The Law also prohibits the holding of public offices for the persons “who (i) worked from the 25th of February 2010 to the 22nd of February 2014 and by their decisions, acts or omissions, promoted the usurpation of power by the President Yanukovich, sapped the foundations of national security, defense and territorial integrity of Ukraine resulting in violation of human rights and freedoms and (ii) the persons who held managerial positions at the Communist Party of the Soviet Union, Ukraine or the Republics of the Soviet Union”.

The Ukraine Lustration has its own Wikipedia page that presents the issue in detail and we took the liberty to reproduce a large part of it here⁷⁰. The purpose of the lustration campaign is to remove from public office "for ten years and others for five years" civil servants who worked under Ukrainian President Viktor Yanukovitch for more than a year "and did not resign of their own accord" between 25 February 2010 and 22 February 2014 and civil servants "who were elected and worked in high positions in the Soviet Communist Party, were permanent workers or secret agents of the Soviet KGB, the Main Intelligence Department of the Soviet Defense Ministry, graduated from higher education establishments of the Soviet KGB (except for technical specializations), worked with the special services of foreign countries as secret informers or carried out events aimed at sabotaging the foundations of Ukraine's national security, defense or territorial integrity by their actions or lack thereof, made public calls for violations of the territorial integrity and sovereignty of Ukraine, or fanned ethnic feud"

The complete process of checking all civil servants is to be completed in December 2016. Elected offices like the President of Ukraine and People's Deputies of Ukraine will not be subject to lustration checks. Current judges of the Constitutional Court of Ukraine and the Supreme Court of Ukraine will not be subject to lustration either.

The bill was passed with the support of 252 out of 450 MPs. On 16 September 2014 the Ukrainian parliament at the third reading adopted the law on lustration and thus finally passed the bill that took effect on 16 October 2014. The head of the working group, which finalized the bill on lustration, Yuriy Derevianko, said that the adopted document differed from the bill considered by the parliament at first reading.

The first lustration wave, in October 2014, resulted in the removal of 39 high-ranking officials. In September 2014, the Prime Minister Yatseniuk announced that more than one million civil servants will be screened, included "the whole cabinet of Ministers, the interior ministry, the intelligence services and the prosecutor's office"⁷¹.

According to other observers, the lustration law was enacted to deal with the rampant corruption of judicial authorities and its dependence to political authorities. On the other hand, the urge for a stronger rule of law was the top demand of the Maïdan protesters. To meet protester's demands but mostly to avoid its own rulings being constantly denied by a hostile justice establishment, the new power that came in place in March 2014 made rapidly up a plan issued on the 11th of April 2014 called "On Restoring Trust in the Judicial System of Ukraine"⁷². The first aim was then the judicial apparatus that was previously in the hand of the Yanukovich regime, terminating the administrative mandates and chairs and deputy chairs in the whole country, and the immediate dismissal of all members of the bodies that were

⁷⁰ http://en.wikipedia.org/wiki/Lustration_in_Ukraine

⁷¹ <http://www.bbc.com/news/world-europe-29239447>

⁷² <http://www.kyivpost.com/content/ukraine/ukrainian-parliament-passes-bill-of-judges-lustration-342611.html>

responsible for internal discipline and judicial careers: the High Qualification Commission of Judges (HQCJ), the High Council of Justice (HJC) and the delegates to the Congress of Judges. It also stipulated that the HQJC and the HJC cannot appoint new members who are parliamentarians, cabinet members, or any person previously charged with corruption or convicted of any other crime. Finally, the law introduced “performance reviews processes in order to identify the judges who violated their oath of judicial ethics, limited Ukrainians’ right to protest during Euromaidan, or participated in cases against political prisoners and activists. Judges who delivered rulings in the electoral disputes over the 2012 parliamentary elections can also come under scrutiny, as will judge’s rulings that have been cited for violation by the ECHR”⁷³.

The process in itself is highly political and benefits to the existing team in power. Indeed, as the main concern of the Maidan protesters was the judicial corruption, the bill hardly defines corruption and how to deal with it. If survey shows that the struggle against corruption is the top priority for 60% of Ukrainians, 78% of the population, according to another survey do not support the lustration program. 54% of them think that such policies should target only those individuals involved in corruption action⁷⁴.

Indeed, “the thorough purge of the judicial leadership would only remind judges that they can be punished for delivering politically incorrect rulings. Research in Latin American has shown that, when judicial tenure is not guaranteed and each incumbent purges the judiciary after coming to power, judicial independence tends to stay low under democratic and authoritarian governments alike. Lustration could thus harm judicial independence in Ukraine more than it helps”⁷⁵.

The neighboring country having implemented a lustration within its own law enforcement system was Georgia during the Presidency of M. Saakashvili. However, the aim was not political but merely to purge the judicial and especially police authorities from the influence of the *vor v zakone*, examining all individual and eventually reintegrating them after a complete scrutiny of their links and situation. If this process was partially successful in drastically decreasing the influence of the mafia-groups in Georgia, it was allowed because of the popularity of Saakashvili after the “Rose Revolution” and its 96% popular vote victory. In Ukraine, neither the President nor the Prime Minister can benefit from such favorable conditions.

We shall observe that through such a judicial “purge”, Ukraine may strongly lack of judicial leaders, and simply man work. On the other hand, the lustration in itself does not cope with corruption through any rule of law, but merely applies an extra-judicial political process, which in turns reinforces the dependence of Justice to the political power.

⁷³ <http://www.foreignaffairs.com/articles/141187/maria-popova/ukraines-legal-problems>

⁷⁴ http://www.ratinggroup.com.ua/upload/files/RG_ICPS_UA_042014_press.pdf

⁷⁵ <http://www.foreignaffairs.com/articles/141187/maria-popova/ukraines-legal-problems>

*"In Ukraine, judicial lustration is now a fact. But there is still a chance for the country to avoid the worst effects of it. For one, the government should signal that it purged the judiciary to promote the rule of law, rather than to use the courts to achieve its own political goals. Once the judiciary is staffed, Kiev should refrain from using it in a politicized way. It may be tempting to rely on a newly cooperative judiciary to contain and neutralize separatist challenges in eastern Ukraine. But the government should not attempt to do so. Unlike the Yanukovitch regime, it should let the judiciary adjudicate all the cases that it receives without interference. Rightly or wrongly, many in the east will still interpret a court ruling against a pro-Russian activist, delivered by a court with a newly appointed chair and deputy chair, as a miscarriage of justice. So, the government should rely more on formal and informal negotiations to restore order in the east and use the criminal justice process very conservatively and only as a last resort. As previous studies have argued, the power and legitimacy of new judiciaries increase when they are isolated from the political fray"*⁷⁶.

According to General Prosecutor of Ukraine Vitaly Yarema, the lustration law adopted by the Ukrainian parliament complied neither with the Ukrainian Constitution, nor international law, and he warned, "Its enactment will have negative consequences".

Volodymyr Yavorsky of the Kharkiv Human Rights Protection Group described the 14 August 2014 lustration bill as "unreasonable" and warned that its implementation would be a "serious systematic violation of human rights"; (among other reasons) because too many people would be affected by it, including the dismissal of officials even if they could not be easily replaced.

The Council of Europe's Venice Commission ruled on 12 December 2014 that the lustration law contained some serious flaws; it called for revision of the lustration criteria, administrative decisions on

Lustration to solve personal disputes?

Not only has the lustration not yet resolved any issues it promised to amend, but the law is also used to sell some personal cases, from the bottom level in the regions to the highest levels in Kiev. One example of how the lustration has been misused is the attack by M. Yuri Lutsenko, current head of the party Bloc Poroshenko against the former Deputy Prosecutor, Deputy Head of the National Security Council of Ukraine and former presidential candidate in 2014 Rinat Kuzmin. In 2010, M. Lutsenko was charged with abuse of office and forgery by the former General Prosecutor of Ukraine Victor Phsonka. In February 2012, he was sentenced to 4 years of jail for embezzlement and abuse of office where he was detained from the 26th of December 2010 to the 7th of April 2013. He was then released from prison with Presidential Pardon given by Viktor Yanukovich. In 2012, M. Lutsenko appealed his verdict to the European Court for Human Rights who stated, on the 3rd of July 2012, that the conditions of his arrest and detention have violated the EHRC, but do not pronounce itself about the merit of his arrest stating that, "there were plausible reasons to think that an infraction had been committed"¹. In this case, the officer conducting the inquiries against M. Lutsenko was M. Kuzmin, who in turn deposited a case on the ECHR against the Ukrainian decision to prosecute him for his role in the previous regime and his actions against M. Lutsenko, using the lustration law as a legal framework.

⁷⁶ <http://www.foreignaffairs.com/articles/141187/maria-popova/ukraines-legal-problems>

lustration to be postponed, and that information on who is subject to lustration should only be published after a final court ruling was issued.

The NGO Human Right Watch however stated that the Committee of Lustration was effectively created in February 2014 and that the interim President Turchenov refused to sign the draft of the Law presented at the time.

Between February and March 2014, three drafts of the law were presented in Parliament and it was reported by Human Right Watch (HRW) that “all three drafts are similar and will be combined in a single document to be used as a basis for a future lustration bill”⁷⁷. The fear with the “lustration” process was to be foreseen by HRW. “All three drafts are overly broad and vague and may set the stage for unlawful mass arbitrary political exclusion, Human Rights Watch said. While the effort to exclude abusive and corrupt officials from playing a role in Ukraine’s future is understandable, the means to achieve this goal need to be based on full respect for individual rights and international legal standards that guarantee political participation and nondiscrimination”⁷⁸.

In the composition itself of the Special Temporary Commission (STC)

established to check all the records, some questions arise too. The STC’s 15 members including 5 parliamentary appointees, 5 Supreme Court delegates

The TI-Ukraine “skeleton in the closet” members of the NACB:

Five nominees for Chairman of National Anti-Corruption Bureau hiding “skeletons in the closet” (may have questionable previous experience, as proved by information from public sources):

1. Anatoly Matios, Chief Military Prosecutor

During the Revolution of Dignity he held the post of deputy head of the Main Control Department of the Administration of the President of Ukraine, Viktor Yanukovich (November 2011 - February 2014).

His earnings are more than one hundred and thirty times smaller than the earnings of his wife (264,4 thousand against 34.7 million USD). This is very similar to the usual officials practice to transfer wealth to family members.

2. Kirill Kulikov, Consultant Assistant of people’s deputy V.V.Klychko

Director of Interpol Bureau in Ukraine; MP from “Our Ukraine - People's Self-Defense”, 2007-2012

“Fake” deputy”: the day before the arrest of Yuriy Lutsenko left opposition and joined pro-government “United Center”, he lobbied legislative support for corrupt scheme of property assessment; voted for appointment of Prosecutor General V.Pshonka. He used to travel with a police ID to avoid inspections of road police. Media associated him with pro-Russian “luzhnikovskiy” group.

3. Yuri Trehubov “currently unemployed” from December 2012

Son of Olga Trehubov, Tymoshenko assistant, built up a career as a prosecutor in Dnepropetrovsk. As an MP from the “Bloc of Yulia Tymoshenko”, in he enjoyed flying for budget expense from 2007-2012. Thus, in the first quarter of 2011 he flew for more than 38.8 thousands exceeding the limit of 6.7 thousand UAH.

4. Yuriy Sukhov, lawyer since 2010

He is a former tax policeman, officer of the State Committee on Religion and Accounting Chamber, the Government Commissioner on anti-corruption policy (2009-2010), member of the Union “Motherland/Batktivshchyna”. In 2014 he earned only 5734 USD that was mentioned as “other income” while his wife made fortune of more than 111 thousand USD. In 2009, “Ukrainian Truth/Ukrainska Pravda” accused him of being connected to Odessa smugglers.

5. Basil Vovk, Head of Investigation Department in Security Service of Ukraine

As a graduate of the KGB School in 1988, he held senior positions in the State Customs Service and in the Security Service. To put it mildly, he was a “victim” of numerous “compromises” he was forced to take during almost 30 years’ service in the national authorities.

Source: <http://ti-ukraine.org/en/news/5149.html>

⁷⁷ <http://www.hrw.org/news/2014/04/09/ukraine-new-law-violates-judicial-independence>

⁷⁸ idem

and 5 Government Representative delegates on Anti-Corruption issues that are themselves under close scrutiny by the NGOs. The National Anti-Corruption who backed the STC members since November 2014 is subject to polemic as demonstrated by a document released by the NGO Transparency International Ukraine in February 2015⁷⁹.

2.5.2. Defense money and contracting

On 6 January 2015, the media⁸⁰ reported that the Presidential advisor and Assistant to the Defense Minister Yuri Biriukov said on TV Channel 5 that “according to estimates, about 20% to 25% of the money is stolen now”, referring to the Defense Minister. He added that there was “total corruption” inside the Department and that the goal of his action “was to ensure that no more money is siphoned off next year, given the increase in the budget”. This refers to the year 2014 and transformed in figures, according to M. Biryukov, meant about 450 million USD stolen from the Ukraine’s military. The same M. Biryukov mentioned in the same interview that in the Ukraine Ministry of Defense, there was now “total corruption”.

This desperate statement reflects what has happened in the Ukrainian armed forces within the last few decades, bringing the narrative to light in 2014 with the increasing of the defense budgets, mainly though international finance help because of the civil war raging on in the eastern part of the country.

But a lot of Ukrainians were asked to contribute to the war effort. Such contribution was not only financial, but also in goods and personal involvement in the brigades. In April 2014, the Washington Post reported that 9 million USD had been raised for the military in a few days across the country from businesses and individuals. Out of it, 2 million USD came from a 50-cent donation made by cell phone users⁸¹.

At that moment, the Stockholm International Peace Research Institute in Sweden recalled that Ukraine’s military budget was estimated at 5.3 billion USD a year, which is very low when compared internationally⁸². Already in April, the newspaper reported that every 81 USD out of 100 USD spent was stolen on one defense factory.

The army was in a disastrous state even if the budget was in constant increase. Indeed, from 2004 (orange revolution) to 2009, the army budget increased from 61%. From the period 2010 to 2013 (Yanukovich’s presidency), the budget increased at a slower pace of 33,7%. However, in the meantime, the army got poorer and poorer, only covering “30 to 40% of their needs,” according to the Defense Ministry’s Deputy supply chief Arkadyi Stuzhuk.

⁷⁹ <http://ti-ukraine.org/en/news/5149.html>

⁸⁰

http://www.ukrinform.ua/eng/news/about_20_25_of_defense_ministry_money_stolen__biriuko_v_328133; <http://news.rin.ru/eng/news///81467/all//>;

⁸¹ http://www.washingtonpost.com/world/europe/ukraine-short-on-military-budget-starts-fundraising-drive/2014/04/19/0eba04d0-c7f6-11e3-8b9a-8e0977a24aeb_story.html

⁸² http://www.sipri.org/research/armaments/milex/milex_database



The raise of the Donbass civil war found the Ukrainian army totally unprepared, underequipped, and undertrained. Militias took the lead on the operation supported by oligarch's financing, citizen financing, and international financial help. It is reported that oligarchs like Serghy Taruta paid for a trench around 90 kms of Russian border while being Governor of the Donetsk region. The Governor of the Dnipropetrovsk region, the oligarch Ihor Kolomoisky, paid more than 10 million USD to several battalions and possible other money in fuel, batteries, and other equipments for the official troops, but also for the militia. Part of these, namely known as the Azov, the Donbass, or the Dniepr battalion recognized the financing of the oligarchs in the mid-2014, before turning back on their declaration. However, M. Kolomoisky admitted having financed the troops (public and militia) of "more than USD 10 millions" in an interview released to the Swiss TV in December 2014⁸³.

War has also turned out some opportunities for oligarchs and industrials. As an example, a former National State Security officer of Ukraine reported that the gasoil needs of the army increased by 2.5 because of the war. Being unable to meet the terms in such an emergency situation, the Rada (Parliament) simplified the public bidding for the army suppliers by shortening the time between the submission of the bid and its entering into force to a maximum of 3 days and allowing contracts to be concluded without public tenders. As a result, some reports⁸⁴ that the most important suppliers of gasoil for the army is a company owned by an oligarch through exclusive contracts realized without any public tender. According to the same source, the same company sold kerosene to the Ukrainian army at a price of 1.5 above selling price pre-war. In May 2014, a company owned by the same oligarch sold, from March to May 2014, military equipments for the troops with a huge margin and even received the authorization of the Council of the Ministries of Ukraine to import military helmets with a price 16% above the competitors. Indeed the same person ensured to sell bread and milk incoming from his own factories, exclusively⁸⁵. The same examples exist with other supplies, such as ammunitions, boots, medicines, etc.

2.5.3. Money that disappears will never be recovered?

Since the beginning of Ukrainian independence, its rulers, both people in power and oligarchs have looted Ukraine continuously. First through the privatization processes, as we have stated before, and then through mechanisms that are in the same time complex in their execution and simple in their constitution. Natural resources, industries, food, communication, energy, transportation, banking, taxes, and currency have been submitted to such "evaporation" of public assets and into private hands. It is useless to

⁸³ <http://www.rts.ch/play/tv/le-19h30/video/le-milliardaire-igor-kolomoisky-est-un-homme-cle-dans-le-conflit-ukrainien?id=6373943>

⁸⁴ http://www.compromat.ru/page_34570.htm

⁸⁵

http://www.golos.ua/ekonomika/14_07_11_segodnya_na_donbasse_idet_voyna_bednyi_h_s_bednyimi_i_za_schet_bednyih

document all the cases but some have been prosecuted and have still not reached a verdict while some others have seen citizens' efforts to bring pieces of evidence to courts with limited success.

So far, only Switzerland has returned some stolen money from the Lazarenko case: only 20 million USD. The money seized in the United States has not yet been recovered (at least USD 60 millions wired by Eurofed Antigua to the escrow account in the US at the beginning of the Lazarenko trial in California in 1999) and the 100 millions USD of the same case is still in Antigua since 1999. The pressure put on the Antigua authorities by the lawyer of the Lazarenko family to retrieve the money still blocked in the Nova Scotia bank in Antigua is adding complexity and greed to what should have been a simple process, but that ultimately transitioned into a nightmare without end⁸⁶.

The lustration process, however, targeted mostly the former “Yanukovich family group” for returning power or keeping any kind of power. But this goal seems not to have been accomplished, mostly because of the interdependencies existing previously between large oligarchs ruling Ukraine for more than 25 years now.

Indeed, the group has been targeted by international judicial requests sent by the Ukrainian authorities already in February 2014 that lead to a massive search of assets of all the former Yanukovich family members and former government officials including former ministers.

TI Ukraine proposes a list of the sanctions over 32 people in 10 countries from the former Yanukovich regime⁸⁷. These persons are:

- Viktor Fedorovych Yanukovitch
- Oleksandr Yanukovitch
- Viktor Yanukovitch (Junior)
- Serhiy Klyuyev
- Vitaliy Zakharchenko
- Oleksandr Yakymenko
- Ihor Kalinin
- Viktor Pshonka
- Artem Pshonka
- Viktor Ratushniak
- Mykola Azarov
- Andriy Portnov
- Olena Lukash
- Raisa Bogatyriova
- Serhiy Kurchenko
- Serhey Arbuzov
- Mikhail Dobkin
- Hennadiy Kernes

⁸⁶ Interviews with the former Interior Minister of Antigua, the current Attorney General of Antigua and the representative of the current Interior Minister of Antigua

⁸⁷ <http://ti-ukraine.org/en/news/seizureofassets>

- Yuriy Ivaniushchenko
- Borys Kolesnikov
- Yuriy Kolobov
- Vladymyr Kozak
- Mykola Prysiazniuk
- Eduard Stavytskyy
- Oleksandr Yefremov
- Valeriy Koriak
- Stanyslav Shuliak
- Vladiir Sivkovich
- Serhiy Aksionov
- Volodymyr Konstantynov
- Viktor Medvedchuk

This listing shows that the sanctions had mostly had an effect on a visa ban, some assets seizure, account and cash flow controls, assets freezing, and blockage in the flowing countries: the Netherlands, the USA, Lithuania, Latvia, Canada, UK, EU, Switzerland, Liechtenstein, Austria, Australia and Ukraine.

However, as most of these sanctions have been issued between February 2014 and April 2014, they are valid up to one single year. Ukrainian authorities shall then come with due criminal claims to transfer these sanctions into effective judicial procedures.

However, the wind seems to have changed direction in Kiev. As the *Ekonomicheskaya Pravda* issued on the 5th of January 2014⁸⁸, “the General Prosecutor’s Office and the MVD (Interior Ministry of Ukraine) do not press for the opening of judicial procedures nor to inquire the responsible of the scandals happened during the 2010-2013 term. That is the reason why the UE could immediately suppress of the sanctions lists all the targeted ex-civil servants”. The article brings some examples.

The former President Viktor Yanukovich is under sanctions decreed by the EU. But these sanctions are limited in time (6 months to one year) and due to the incapacity of the Ukrainian authorities to provide the necessary documentation to the EU authorities, the sanction will be lifted soon. But Ukrainian authorities themselves seem not to be really stressed by the issue apart in front of the international media. The newspaper mentions the example of the helicopter platform of Yanukovich in the Parkovaya Doroga in Kiev. More than two months ago, Aydar activists asked that this propriety should be declared public propriety. It was already known at the time that a company called Amadeus I CO, linked to the former President, continued to receive the rent of this propriety. In April 2014, a criminal inquiry had been launched in Kiev on this propriety on the suspicion of the use of illegal construction permits. In December 2014, the administrative Court of Kiev reached the conclusion that all the permits were legal and the case was dismissed.

⁸⁸ http://www.epravda.com.ua/cdn/cd1/in_exile_victory_yanukovych_clan_in_2014/

Another example cited in the article concerns a company linked to the ex-President that continues to receive orders of state companies for railways material and wagons and locomotives.

The son of the former President, Olexandr Yanukovich, is in the same situation. According to S. Leshenko, investigative journalist but newly elected deputy for the Poroshenko bloc, the VBR bank linked to M. Olexandr Yanukovich continues to operate. The Interior Ministry and the Courts of Kiev and Donetsk have recently closed the case opened against VBR in 2012-2013 for tax reasons. However, the Interior Ministry refute the fact that the case have been closed, stating that investigation continues, with no result since now. Similarly, no information is available on the case DRFTS (Accountability and Finance Center of Donetsk Association). This case, on the hands of the Court of Donetsk, regards accusation of illegalities in the buying and selling of coal, some of it being bought or sold to state companies. Indeed, the group DRFTS had bought a metal enrichment plant in 2014 in the Donbass region. The authorities have not been able to connect the MAKO Corporation, linked to M. Olexandr Yanukovich to the company OOO DRFTS. Indeed, in June 2014, the former General Prosecutor of Ukraine, M. O. Mahnitskyi, stated that the company MAKO, owned by M. Olexandr Yanukovich, had realized a tax evasion from more than 42 million of hryvnas, but nobody knows where the investigation had finished.

The former Prime Minister and his son, Nikola and Aleksei Azarov are also practically out concerning the international sanctions. The authorities in Kiev have not issued a single sentence against them.

One preeminent member of the “Family” who was mostly targeted by the media in Ukraine before the Maïdan and even in Germany after it, Serghy Kurchenko is holding its positions, despite a fierce struggle with the other oligarch and now governor of Dnipropetrovks region M. Igor Kolomoisky. If Ukrainian Courts have done nothing so far, and even if his major losses are due to his personal battle with other oligarch over some strategic assets, even the German inquiry is not progressing much in its inquiry against the Kurchenko’s assets in Germany.

The article mentions the same situation with another “Family” member, Yuri Ivaniushenko. The Swiss authorities have frozen CHF 72 millions in Switzerland and \$32 million by the EU. However, the President of the Direction of Anti-corruption Centre (GPU) Vitali Shabunin officially stated that M. Ivaniuchenko had no criminal proceeding against him. The activities of its other companies are developing in Ukraine. More than that, companies linked to Ivaniushenko have tried to recuperate from the Ukrainian state from 140 million hryvnas for “green” investments.

The article mentions that 5 companies, known to be linked to and used by the “Family” to recuperate state funds are under judicial proceedings: Stek, Avalon, Intertekhenergo, Soyuz 2007, and Karpatibudininvest. Only the last one is entitled to M. Ivaniushenko, the others are registered under front men and the company Intertekhenergo is, according to journalists of the media



Sledstvie Info, belongs to representatives of the extreme-right party Svoboda, to which the ex-prosecutor M. O. Mahnistkyi belonged.

Another case is the one of the ex-Vice Prime Minister and ex-Finance Minister Serghy Arbuzov. The article mentions that on the 21st of November 2014, a judge of the Pecherskyi Court in Kiev took the decision to lift all seizure decision over the accounts and assets of M. Arbuzov and his wife. Three days later, upon injunction of the General Prosecutor's Office of Ukraine, the same Pecherskyi Court re-seized the assets and accounts, allowing M. Arbuzov, in the meantime, to transfer and retrieve more than 50 million hryvnas from his accounts. Concerning this matter, the decisions will be again lifted for insufficient proofs.

We notice that the lawyer of M. Arbuzov in this case was the very same lawyer (Me Fomin in Kiev) used by the Special Advisor of the current president M. Poroshenko, and former Minister of internal affairs of the two Tymonchenko's government, M. Yuri Lustenko.

Recently, an accusation of a massive bribe of 1 billion USD was attributed to the former President Kuchma and his son-in-law, Viktor Pinchuk, one of the most preeminent oligarchs of Ukraine.

Out of the money seized by European authorities after the Maïdan targeting the former Yanukovich team, only Switzerland provided some figures and did not yet transfer the money back.

The citizen initiative called "Yanukovichleaks"⁸⁹ did not come of anything despite a massive effort to collect and recover thousands of documents found in the presidential residence Mezhyhirya after the ousting of the President. Although the residence was transformed successfully into a "Museum of Corruption" thanks to many private citizens' efforts, the overall results are very weak.

The documents found in the former Presidential "delirium tremens" allowed at least bringing the first and merely the only evidence that allowed the judicial authorities in Ukraine to start a criminal procedure against the former President Yanukovich on abuse of power and murder charges. The Ukrainian authorities presented a request for an INTERPOL arrest warrant (Red Notice) on the 5th of March 2014⁹⁰, and then for embezzlement⁹¹. The charges of murder and of "abuse of power" do not seem to remain in the accusation. This case is an example on how real evidence can support judicial actions, the pieces of evidence were not found by the authorities but by the citizens.

In autumn 2014, the Basel institute on Governance was formally "hired" by the Poroshenko's presidency to recover the money stolen by the Yanukovich "family" and members of the government. However, without any judicial decision from the current Ukrainian authorities, any seizure remains unlikely

⁸⁹ <http://yanukovychleaks.org/en/>

⁹⁰ <http://www.interpol.int/News-and-media/News/2014/N2014-037>

⁹¹ <http://www.reuters.com/article/2015/01/12/us-ukraine-crisis-yanukovich-idUSKBN0KL17F20150112>

and all these initiatives today are more considered to be “communication” rather than real action.



D- The Ukraine's Oligarchic Structure

The Ukraine's Oligarchic Structure

In this section we will look at the most important oligarchs and their empires, analyzing their background and linkages, their political alliances and their major economic interests. We cover first the oligarchs from Eastern Ukraine, who made their start in mining and metallurgy (the Donetsk and Dnepropetrovsk clans) and then the RUE group, led by Dmitry Firtash, who made an initial fortune serving as an intermediary in the murky world of natural gas trading.

With a few notable exceptions, such as Kostyantyn Zhevago and Viktor Pinchuk, and, more recently, Vitaly Haiduk and Sergey Taruta, all of these oligarchs are currently supporters of President Viktor Yanukovich and the Party of Regions. We will look at the latest generation of oligarchs popularly known as “The Family” who are most closely tied to President Yanukovich and have seen a meteoric rise in their economic fortunes since his presidency began in 2010.

1- Geography of wealth

As American energy expert Edward Chow has commented:

“If you were to design an energy system that is optimized for corruption, it might look very much like Ukraine’s. You would start with a wholly state-owned monopoly that is not accountable to anyone but the head of the country who appoints the management of this company. It would operate non-transparently without being held accountable by shareholders (who might demand legal rights as owners) or capital markets since its chronic indebtedness is periodically repaid by the state treasury. Domestic production would be priced artificially low, ostensibly for social welfare reasons, leading to a large gray market in gas supply that is allocated by privileged access rather than price. Low gas prices suppress domestic production and energy efficiency improvement, thereby necessitating the import of large volumes of gas, which, coincidentally is controlled by the same state monopoly or its chosen middleman company. The opaque middleman is frequently paid handsomely in kind, rather than in cash, which allows him to re-export the gas or to resell to high value domestic customers leaving the state company with the import debt and social obligations.”⁹²

Ukraine’s oligarchic structure developed largely around several types of business—the extractive/productive industries, shipping and transport, and

⁹² Quoted in Forum Ukraine, Feb. 1 2012, reporting on Chow’s testimony at Congressional Hearings on “Ukraine at a Crossroads: What’s at Stake for the U.S. and Europe?”



various services and trade. These types of business, in turn, roughly correlate to several economic regions in Ukraine: eastern Ukraine, the Black Sea region, and Kyiv and its surrounding areas. It should be noted that similar asset grabbing went on in almost every sector of the economy, but these are the sectors where the biggest fortunes were made.

1.1 Eastern Ukraine: The Extractive and Productive Sectors

Many of Ukraine's earliest—and wealthiest—economic elites, including Viktor Pinchuk, Rinat Akhmetov, Vitali Haiduk, Sergei Taruta, Viktor Nusenkis, Igor Kolomoysky and Gennady Bogolyubov, hail from eastern Ukraine. This is unsurprising given the region's history: the vast majority of Soviet Ukraine's largest industries, including mining and metallurgy as well as the manufacture of transportation and industrial machinery, were located in the Donetsk Basin in eastern Ukraine.

Therefore, high-level officials in state enterprises related to these industries in Donetsk and Dnepropetrovsk oblasts, in collusion with other government officials and/or members of organized crime groups in these regions, availed themselves of the rock-bottom-priced insider privatization opportunities afforded them to privatize these industrial concerns to themselves. As a result, the oligarchic structure that emerged in newly-independent Ukraine, and which endures today, reflects those who entered business through these sectors.

1.2 The Black Sea Region: Shipping, Transport and (Illicit) Trade

In addition to the eastern-Ukraine group of oligarchs, a subset of the nation's economic elite got its start by doing business in the Black Sea region. Ukraine's strategic position along land and water trade routes from the Soviet Union into Europe, the Middle East and beyond, and especially the ports of Mykolaev, Odessa, and Sevastopol—offered well-connected “criminal entrepreneurs,” the opportunity to amass significant wealth from shipping and transport, including illicitly-traded goods like weapons, cigarettes, and counterfeit pharmaceuticals.

1.3 Kyiv and its Environs

As might be expected, several oligarchs rose to Ukraine's economic elite from business undertaken in the capital city of Kyiv. This group, which includes Dmitry Firtash and Kostyantyn Zhevago, hailed from across Ukraine, but their rise in business results from their careers in Kyiv. Important sources of enrichment for Kyiv's class of oligarchs include banking and financial services,

the oil and gas trade, the media, and their ability to benefit from their political ties and/or positions in government or the legislature.

As Prime Minister Mykola Azarov said in a speech in 2010, he used to tell his fellow ministers, when he worked as Finance Minister: (2002-4 and 2006-7) “Have a conscience. (Steal) five percent and the hell with you because there is no way we can track this money down, but please, don’t steal 50 percent. Show some conscience.”⁹³

1.4 Eastern Ukraine: The Donetsk and Dnepropetrovsk Clans

Eastern Ukraine’s preeminence as a top site of metallurgy, mining, industry and machine-building for the entire Soviet Union gave political leaders in this region access to the top levels of power in the USSR. Both Nikita Khrushchev and Leonid Brezhnev rose to leadership partially due to their significant ties to this region. Mining and metallurgy in general, and the Donetsk region in particular, account for the largest share of Ukraine’s foreign exports. So it is not surprising that this sector contributed most heavily to today’s oligarchic structure in Ukraine, with the wealthiest oligarchic groupings known as the Donetsk and Dnepropetrovsk clans.

By the mid-1990s, all of the groups involved in Soviet-era machinations – state enterprise leaders, corrupt officials, and organized criminals – had already amassed fortunes and appropriate networks, both in domestic politics and international trade. So, they were perfectly positioned to participate in the shadowy insider privatization of state-owned mining and metallurgy facilities in independent Ukraine. A well-documented example of how “insider” privatization worked to their benefit can be seen in the June 2004 privatization of Kryvorizhstal, a massive steel manufacturing plant in Dnepropetrovsk oblast’.

1.5 Economical indicators

It will be not correct addressing the topic of the geography of wealth in Ukraine without addressing some of the major economic indicators of the country and the territorial infrastructures. This information is also very useful to understand the developments and some of the tactical logic of the current civil war in Ukraine.

We acknowledge that the following charts and figures mostly come from the World Bank and the State Statistics of Ukraine up until 2013.

⁹³ Kupatadze, op.cit., p 111

1.5.1. The EU DCFTA ?

One can obviously analyze the criminal trends in Ukraine through the individual corruption of powerful actors such as the oligarchs or through powerful private wills and decisions of a very small numbers of individuals. However, it is fascinating on how the national economical indicators might give an insight to explain how all these powerful actors acted in some way instead of another, what drove the people to the streets of Kiev in the cold Ukrainian winter, and eventually why the civil war exploded and still lasts.

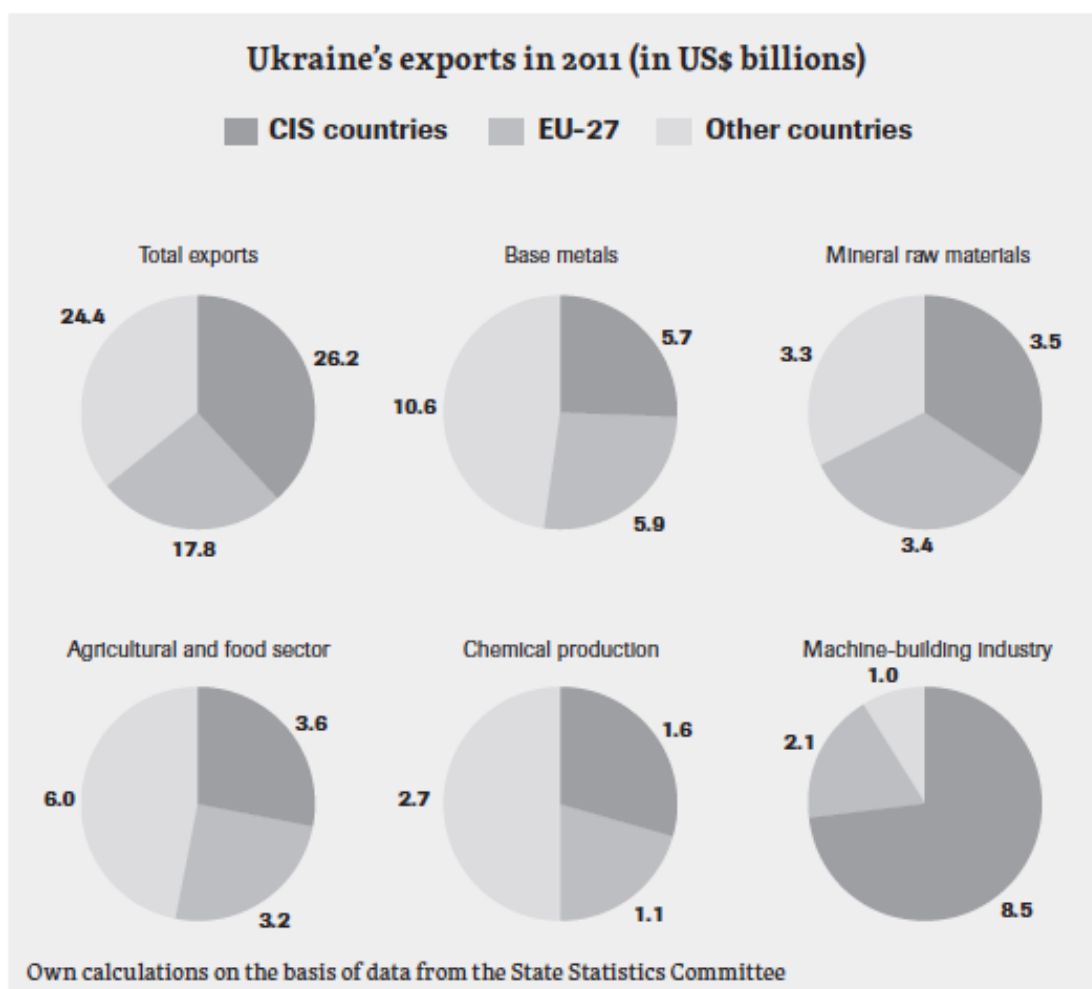
The element which is often described as the “trigger” of the Maïdan events which was expected and prepared by the opposition for a long time but exceeded all their expectations was the refusal of the former President Yanukovich to sign the EU trade agreement (DCFTA).

This very element has a large economic background as well as an invisible link to corruption and organized crime practices, which are constantly undermining the country’s development since its independence.

In 2011, Slawomir Matuszak⁹⁴ proposed some analysis about the impact and the likelihood of said agreement with the EU regarding the export balance of Ukraine in 2011 on one side and the oligarch’s business eventual benefits and losses derivating from this agreement.

From his analysis, the Ukraine’s export in 2011 for the different industries didn’t show preeminence of the CIS countries, nor of the EU bloc. In this case, the balance was quite respected, with a short advantage for the Ukrainian exports toward the CIS countries, mostly due to the machine-building industry exports.

⁹⁴ S. Matuszak, op.cit. p. 67



Although it is well recognized that the EU-DCFTA would have weakened some oligarchs and reinforced others by directly impacting their businesses, he concluded that *“none of the oligarchs is interested in introducing free and fair competition in Ukraine, since this would mean a major change in the nature of their business activity. Nevertheless, the introduction of some elements of Western standards, especially the respect of ownership rights, is viewed by big business as being desirable”*. Such analysis is in-line with the increasing facts and risks of raiding, with the interests of all entrepreneurs in Ukraine but also largely advertised as one of the necessary conditions for the take-off a liberal and integrative economy⁹⁵.

⁹⁵ This is the main thesis presented in the 2012 best seller « Why Nation Fails ».

1.5.2. The major economic indicators



As the Ukraine GDP table shows, the 2008 crisis deeply impacted Ukraine, and possibly precipitated the change of governance in the country that recovered pretty well from the massive GDP loss of 2009-2010.

The same trend is confirmed by the GDP pro capita.



This trend was even confirmed according to the statistics, Ukraine's population was decreasing over the years for more than a decade:



The impact of the economical indicators over the political situation can also show some correlation between the economical internal situation and the change of power:



Let remind that in 2010, M Yanukovich was elected President and was ousted in late 2013, two periods that show a slowing down of the economical growth of the economic activity in the country.

Another indicator often used to explain social massive discontent is the unemployment rates and trends.

As the table below shows, the spike in unemployment in 2010 has since then slowly decreased, but without reaching the same level before the economical crisis of 2008.



Every analyst knows that a durable unemployment rate drives the labor force into the “black economy”, mostly “undeclared” but also illegal or criminal.

In fact, the monthly wages increased almost continuously in 2012 and 2013



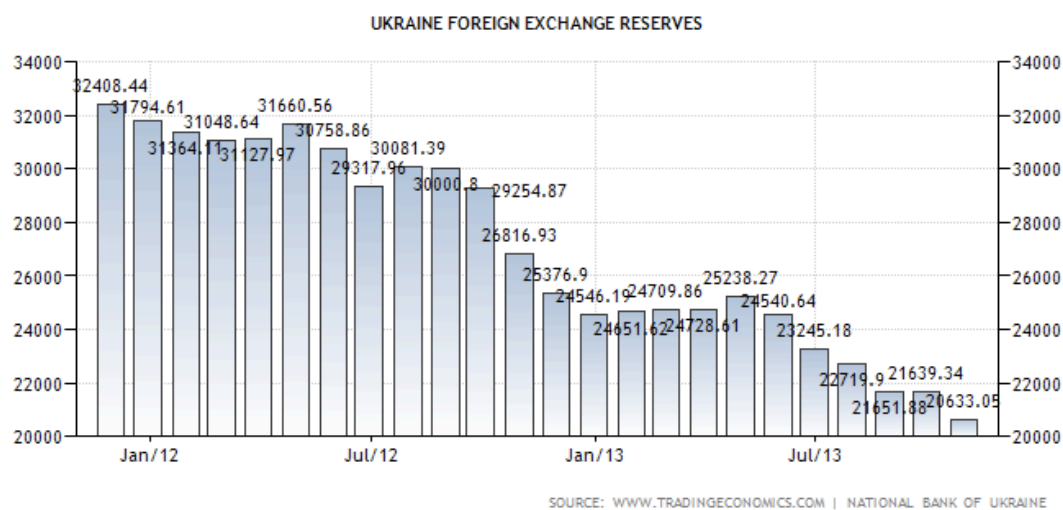
The Consumer Price index remains also quite stable during the same period.



The consumer spending also largely increased during the 2010-2013 period:

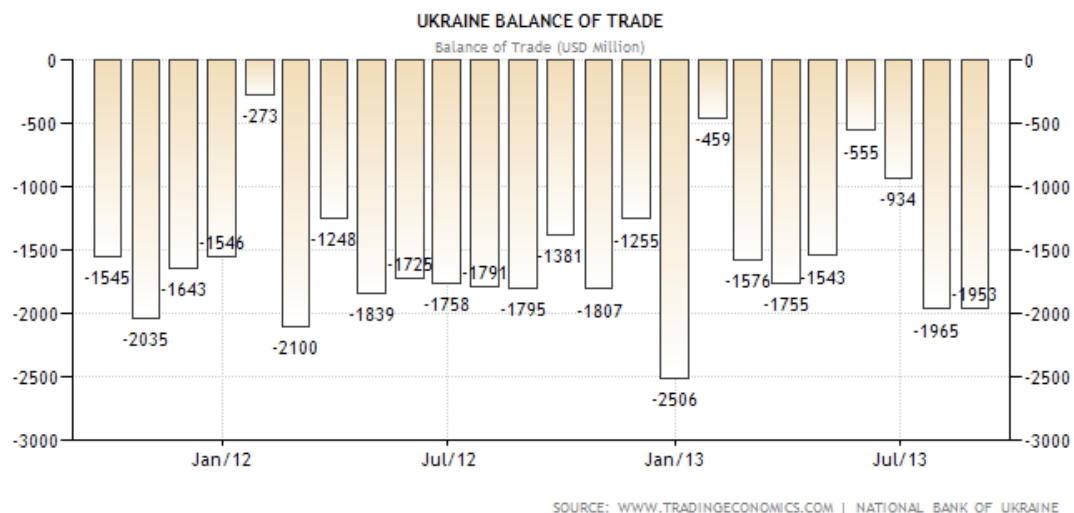


But other indicators shows that these relatively good performances between 2010 and 2013 were mostly supported by a state impoverishment and by a durable slowdown of the industrial indicators despite some efforts to attract foreign investment by massively lowering the interest rates and the corporate tax rate.





With a continuous negative trade balance, an external debt growth (apart in 2013) and a durable budget deficit, the governmental debt suffered a massive increase going from 12.3% of the GDP in 2008 up to 40.5% of the GDP in 2011 and getting down to 35.89% of the GDP in 2013.





Moreover, the loans to the private sector increased at a steady rhythm in 2012 and 2013.

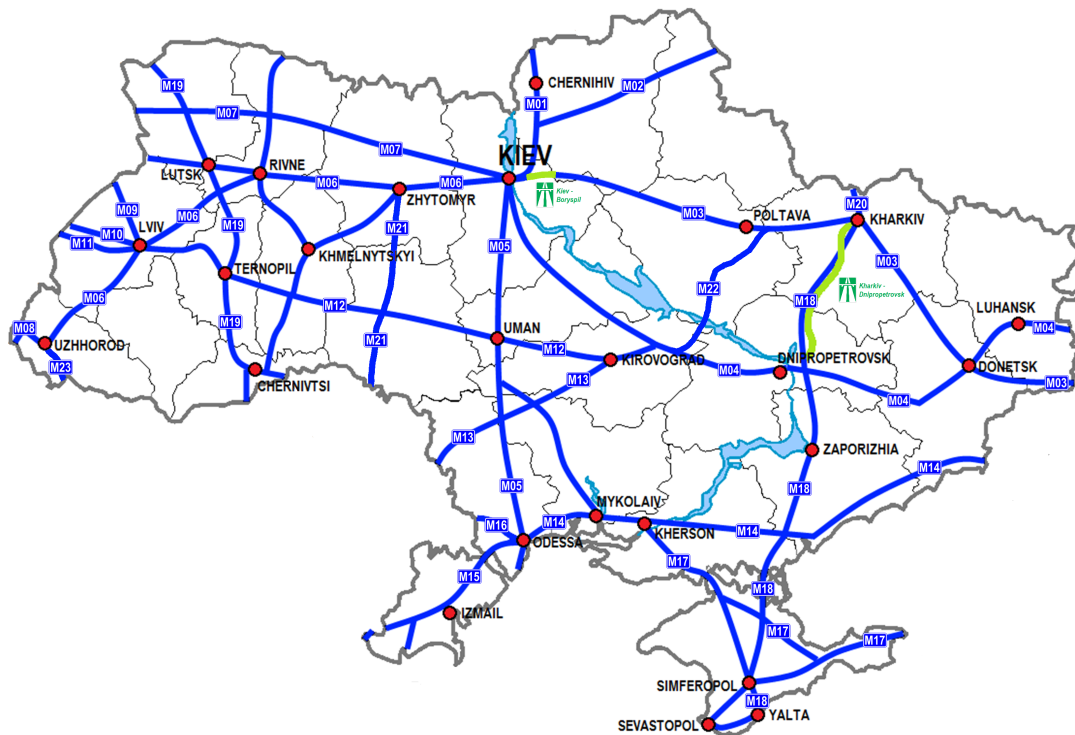


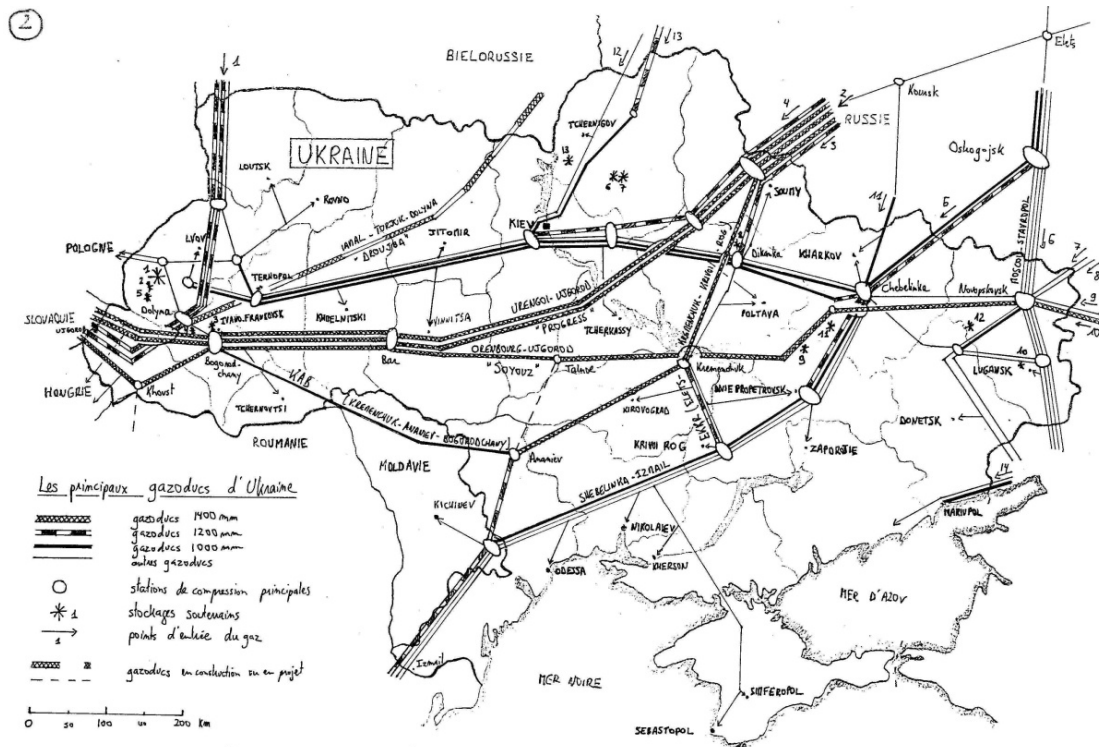
1.5.3. The infrastructure and repartition of wealth

One shall experience difficulties in understanding the whole picture of the Ukrainian situation without knowing the main infrastructure, economical activities, and wealth repartition.

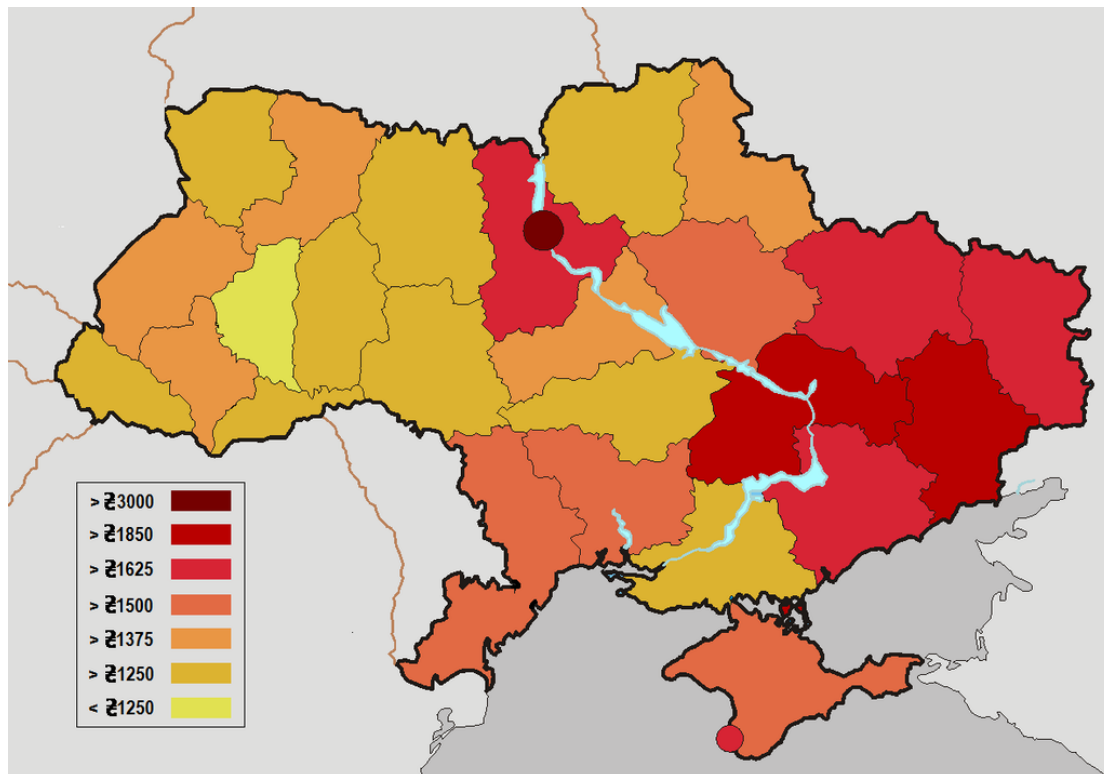
Regarding the transportation infrastructure, the highways and railways of Ukraine before the war were as follow.

Highways in Ukraine:





The salary repartition shows the differences between the three main regions of the country.



2- The Who's Who of Ukraine's Oligarchy

Even if the oligarchic structure of Ukraine has changed a bit through almost a year of civil war, its main players still remain very powerful. The former established before the Maidan seems still to be valid:

Main sectors of business activity of the key Ukrainian oligarchs

Rinat Akhmetov	Metallurgy, media, banking, transport, conventional power engineering, insurance, retail trade
Ihor Kolomoyskyi and Henadiy Boholyubov (Privat Group)	Banking, media, metallurgy, oil sector, chemical industry, air transport
Dmytro Firtash	Chemical industry, gas sector, banking, titanium industry
Viktor Pinchuk	Metallurgy, media
Serhiy Tihipko	Financial sector, machine-building industry
Kostyantyn Zhevago	Metallurgy, machine-building industry, banking
Vadym Novinsky	Metallurgy, machine-building industry, shipbuilding industry, agriculture
Oleh Bakhmatyuk	Agriculture, food industry
Andriy and Serhiy Klyuyev	Metallurgy, machine-building industry, renewable power engineering
Serhiy Taruta	Metallurgy, media
Petro Poroshenko	Food industry, automobile industry, media
Borys Kolesnikov	Food industry
Valeriy Khoroshkovskyi	Media
Tariel Vasadze	Automobile industry, insurance

(Source: S. Matuszak (2012); *The Oligarchic Democracy, the influence of business groups on Ukrainian politics*, OSW Studies, Number 42, September 2012, Warsaw.

2.1 Eastern Ukraine: The "Donetsk Group"

2.1.1. Rinat Akhmetov: System Capital Management

Rinat Akhmetov is currently Ukraine's richest man with a reported net worth of \$15.4 billion. In 2013, he ranked #47 on the *Forbes* list of the world's wealthiest businesspeople. Akhmetov's empire began in the metallurgical sector, as he co-founded the Industrial Union of Donbas (ISD) in 1995, along with Vitaly Haiduk and Sergey Taruta.

But in 2005 Akhmetov split with ISD and transferred ISD's Donetsk holdings into his own company, System Capital Management (SCM), a Cyprus-registered group of companies, which currently form Ukraine's largest corporation (\$22 billion in assets in 2010). In 2006, Akhmetov established Metinvest to manage SCM's mining and metallurgy interests and DTEK (Donbass Fuel Energy Company) in the power engineering sector.

With these interlocking vertically integrated corporations, Akhmetov dominates the metallurgical sector from raw materials to finished products, and has been able to fight off rival businesses by cutting off their access to raw materials, energy or markets. Currently, Metinvest companies own Ukraine's largest iron ore manufacturer, its second largest coking coal mine, and manufacture 40% of Ukraine's steel production.

Likewise, in the power engineering sector, DTEK has plants that mine coal and enrich it, produce oil and gas and trade it, and thermal power plants that produce over 30% of Ukraine's electricity consumption. DTEK is also intending to develop wind power and other renewable sources, and export electricity to EU states.⁹⁶

2.1.2. Vitaly Haiduk and Sergei Taruta: Industrial Union of Donbas (ISD)

Listed as Ukraine's twelfth and seventeenth richest citizens at the end of 2010⁹⁷, Haiduk and Taruta are characteristic of the Ukrainian Donbas oligarchs who rose from the Soviet *nomenklatura*. Both men served as state enterprise managers in the metallurgical industry in the Donbas region, which gave them a clear advantage when these industries were being privatized, and both have been regional and national politicians.⁹⁸ Taruta also reportedly had worked in a Soviet foreign trade organization⁹⁹, which would have allowed him to establish international trade networks.

Haiduk, who hails from the Donetsk region, became the General Director of the Zuevsky Energy-Mechanical Plant in 1987, a position which would have

⁹⁶ Matuszak, Slawomir, "The Oligarchic Democracy: The Influence of Business Groups on Ukrainian Politics", OSW Studies #42, Centre for Eastern Studies, Warsaw, Poland: 2012. P88-91

⁹⁷ *KyivPost Newspaper*, Issue #51, 17 December 2010. <http://www.kyivpost.com/newspaper/2010-12-17/>

⁹⁸ Aslund, Anders, *How Ukraine Became a Market Economy and a Democracy*, Peterson Institute: Washington, DC, 2009. p.108.

⁹⁹ *ibid.*



given him access to major players in the Soviet energy industry as well as potential trade partners in the Soviet bloc and Soviet-friendly states worldwide. It offered an easy opportunity to create one of the early quasi-private sector concerns outlined in the 1987 Soviet Union Law on State Enterprises.

He first entered into politics in 1994, serving as vice chairman of the Donetsk Oblast legislature and then as First Vice Governor in 1997, both under Kuchma ally Vladimir Scherban.¹⁰⁰ President Kuchma appointed Haiduk to the post of Deputy Minister of Fuel and Energy in 2000, and rose to the position of Minister of Fuel and Energy in 2001.

He was named Vice Prime Minister for Industry, Fuel and Energy in November 2002, at the advent of Viktor Yanukovich's first term as Prime Minister, until December 2003. The term of Haiduk's national political service coincided with several major acquisitions by ISD, in particular the Alchevsk Metallurgical Plant in 2002 and the Dneprovskiy Metallurgical Plant in 2003, which ISD privatized by purchasing 98.8% of the formerly state-owned enterprise's shares via "competitive tender".¹⁰¹

Although Haiduk was originally affiliated with Viktor Yanukovich, he later switched to supporting Yushchenko and then Yulia Tymoshenko. Possibly as a result of this, ISD ran into troubled times and has reportedly been on the losing end of several battles with SCM, which was able to deny ISD the low-price domestic iron ore it needed. In 2009, Haiduk sold his stake in ISD to a group of Russian investors.

According to analysts, ISD has not fared well since changing ownership, being the only business group of its kind that hasn't achieved an expansion period since Ukraine's 2008 economic crisis began. In 2011, Akhmetov was able to gain control over ISD's major assets (the Ilyich Steel and Iron Works in Mariupol and Zaporizhstal) when Ukraine's government invalidated aspects of their 2009 sale.¹⁰²

2.1.3. Viktor Nusenkis: Energo/Donetskstal Group

Former mine director-turned-businessman Viktor Nusenkis, Ukraine's fourth wealthiest oligarch in 2010¹⁰³, founded mining and metallurgical giant Energo in 1992. Within a year it was among the largest suppliers of coal to Ukraine, Russia, and Kazakhstan, and ultimately became one of the largest companies in the Commonwealth of Independent States. In addition to mining and metallurgy, Energo is active in the banking and agribusiness sectors.

Like Haiduk and Taruta, Nusenkis also appears to have gained access to Ukraine's post-Soviet mining and metallurgy business due to his position as the director of a Soviet state enterprise, the Zhdanovskaya mine. Unlike ISD's founders, however, Nusenkis appears to have relied less on forceful tactics to

¹⁰⁰ Haiduk Profile, <http://file.liga.net/person/295-vitalii-gaidyk.html#>

¹⁰¹ ISD website history

¹⁰² Matuszak, op.cit. p53.

¹⁰³ "#4 Richest: Viktor Nusenkis, 56", *Kyiv Post*, 17 December 2010. <http://www.kyivpost.com/content/ukraine/4-richest-viktor-nusenkis-56-93078.html>

improve his business position, and instead on luck, his ethnic Greek connections and political alliances in order to succeed in both the pre-collapse and post-Soviet business climates.

Selected as a winner of an all-Union mine industry competition in the early 1980s, Nusenkis was recognized by then-First Deputy Minister of the Coal Industry in the USSR, Nikolai Surgai, also a member of the tight-knit Ukrainian Greek diaspora. Surgai reportedly took Nusenkis under his wing and by age 31, Nusenkis was at the helm of the Zhdanovskaya mine and thus included in Soviet Ukraine's mining/metallurgical business elite.

In 1992, Nusenkis formed Energo, which quickly became one of Ukraine's largest coal trading firms. Some reports indicate that Nusenkis, in partnership with Donetsk political leader and MP Efim Zvyagilsky and Alexander Astrakhan¹⁰⁴ controlled the entire coal-mining sector in the Donetsk Basin in the early 1990s.¹⁰⁵

Not only would Nusenkis have developed political cover through Zvyagilsky, but in 1994 he also hired Vladimir Logvinenko, one of the former Soviet Union's so-called "red directors", as Energo's executive director after Logvinenko's failed bid for the governorship of Donetsk oblast'. It appears as if Nusenkis might have relied largely on political insiders for his business growth and security: links between Nusenkis and Donetsk's organized crime groups have not been established.¹⁰⁶

The Donetskstal Group, an Energo subsidiary, is comprised of Donetskstal Iron and Steel Works, Donetsk Metallurgical factory, Pokrovskaya coal mine, Krasnoarmeiskaya (Zapadnaya #1) coal mine, Yasinovskaya coking and chemical plant, and Makeevka coking and chemical plant. Other mining and metallurgy concerns owned by Energo include the Zarechnaya, Komstromskaya and the Oktyabrskaya mines in Russia.

¹⁰⁴ "Viktor Nusenkis Profile", LuxLux, <http://luxlux.net/dossier/viktor-nusenkis/>.

¹⁰⁵ "Profile: Viktor Nusenkis", UBR (Ukrainian Business Resource), <http://bp.ubr.ua/profile/nusenkis-viktor-leonidovich>.

¹⁰⁶ It is important to note that comparatively little is known about Nusenkis, who remains largely out of the public eye, although his business partner Efim Zvyagilsky was involved in the establishment of Yanukovich's Party of Regions.

2.2 Eastern Ukraine: The "Dnepropetrovsk Group"

2.2.1. Viktor Pinchuk: Interpipe Group

Although born in Kyiv, Pinchuk was raised and educated in Dnepropetrovsk, where both of his parents worked in the metallurgical field (his father was a steel-mill designer and his mother taught at the Dnepropetrovsk Metallurgical Institute¹⁰⁷). After graduating from the metallurgical institute with a specialization in pipe manufacturing, Pinchuk worked at the USSR's All-Union Pipe Industry Scientific Research Institute. According to several journalistic-style blogs, Pinchuk made his initial capital toward the end of the Soviet era by selling pipe materials made in the Dnepropetrovsk region on the world market for ten times their domestic price.

The Intersection of Personal Relationships, Politics, and Business Success

Viktor Pinchuk is married to the daughter of former president Leonid Kuchma, and his rise in the sphere of industry – which occurred largely during Kuchma's presidency – may be partially attributed to his close relationship with Kuchma. Mining and metallurgical assets acquired by Pinchuk during this period include the privatization of controlling stake in the Nikopolsky Ferroalloy plant in 2003 for \$81m, which was contested at the time and then the subject of an armed-takeover attempt by Privat Bank owners Gennady Bogolyubov and Igor Kolomoysky. Although Pinchuk's Interpipe retained control of the facility despite the takeover attempt, the Supreme Court of Ukraine declared the Nikopolsky privatization illegal in January 2006, one year after Kuchma's term of office ended and Viktor Yushenko's began.

Pinchuk founded metallurgical giant Interpipe Group in 1990, prior to Ukraine's independence from the Soviet Union. Interpipe's main metallurgical industries include the manufacture of oil and gas pipes, railway wheels and iron alloys, and its companies are mostly located in the Dnepropetrovsk oblast'. While Interpipe was a tremendous force in the 1990s until the mid-2000s, its influence has waned with the rise of other actors in mining and metallurgy, most notably Rinat Akhmetov.

However, Pinchuk continues to acquire assets in this sector through his EastOne conglomerate, including five iron-ore companies in the Dnepropetrovsk oblast' (Orekhovskoe, Proletarskoe, Lozovatskoe, Krasnofedorovskoe, and Nikolaevskoe). Additionally, Pinchuk opened InterpipeStal (aka "Dneprostal") in fall 2012, a remarkable event in that InterpipeStal represents the first-ever newly built metallurgical enterprise in independent Ukraine.

EastOne is the parent company of Viktor Pinchuk's concerns, which includes not only metallurgical companies, but also media assets (television, newspapers, and magazines), and an insurance company.

¹⁰⁷ "Viktor Pinchuk: Formation, Privatization, Kidnapping", *Entrepreneur Journal of Business*, 25 June 2011. <http://predprinimatel.co.ua/en/entrepreneurship/success-stories/viktor-pinchuk-stanovlenie-privatizaciya-pohishenie>

2.2.2. Igor Kolomoysky & Gennady Bogolyubov: Privat Group

The Privat Group is Ukraine's second-largest industrial and financial group, behind Akhmetov's SCM.¹⁰⁸ The group is mainly controlled by Igor Kolomoysky and Gennady Bogolyubov, Ukraine's second- and third-wealthiest oligarchs in 2010, respectively¹⁰⁹, with Aleksei Martynov as a more minor shareholder. Most of the group's Ukrainian businesses (including Privatbank itself) are based in Dnepropetrovsk Oblast. We must notice that the term "Privat Group" is not a registered entity in itself but more a common name for labeling a set of very disparate entities.

Privat Group's founders were both born and raised in Dnepropetrovsk oblast'. They have been viewed with concern in the West for their alleged corporate raiding tactics, which are said to include a forcible takeover of the Kremenchuk steel factory in 2006. In this instance, hundreds of armed young men used everything from gas and rubber bullets, chainsaws, iron bars, and wooden bats to take control over the plant¹¹⁰: for further details about Igor Kolomoysky corporate raiding, see Appendix 6.

More recently, Privat Group has been the subject of several legal proceedings in the US, UK, and Sweden. Kolomoysky has also been involved in a London-based lawsuit stemming from an alleged corporate takeover of the British oil firm JKC.¹¹¹ Unlike the three mining and metallurgy conglomerates discussed above, Privat Group owns a good share of its metallurgy assets abroad, including in Australia, Ghana, and the United States, and appears to be expanding its foreign interests.

However, Privat Group does control several mining and metallurgical concerns in Ukraine, including iron alloy plants in Nikopol (Dnepropetrovsk oblast'), Zaporizhye (Zaporizhye oblast'), and Stakhanov (Lugansk oblast'); one steel mill, Dnepropetrovsk's Petrovsky Metallurgy Kombinat; and several ore mining and processing facilities, the Marhanets and Ordzhonikidze Mining and Processing enterprises in Dnepropetrovsk oblast' (through which it controls the domestic market for this raw material), Suha Balka iron-ore extraction facility in Kryvyi Rih (Dnepropetrovsk oblast'), and the Pivdennyi Mining and Processing factory in Kryvyi Rih, which is co-owned with Vadim Novinsky (owner of Smart Holding).¹¹²

Private Group is one of the most powerful and aggressive financial-industrial groups in Ukraine having historical ties with the Tymoshenko family. However, the Private Group is a "flagname". In Ukraine, there is no any registered

¹⁰⁸ Matuszak, Slawomir, "The Oligarchic Democracy: The Influence of Business Groups on Ukrainian Politics", OSW Studies #42, Centre for Eastern Studies, Warsaw, Poland: 2012. p. 104

¹⁰⁹ *KyivPost Newspaper*, Issue #51, 17 December 2010. <http://www.kyivpost.com/newspaper/2010-12-17/>

¹¹⁰ Kaylan, Melik, "An Injection of Rule of Law For Ukrainian Business? Oligarch's Lawsuit Could Help Improve the Culture of Business Dealings in the Post Soviet Space," *Forbes*, July 15, 2013. <http://www.forbes.com/sites/melikkaylan/2013/07/15/an-injection-of-rule-of-law-for-ukrainian-business-oligarchs-lawsuit-could-help-improve-the-culture-of-business-dealings-in-the-post-soviet-space/>

¹¹¹ Ibid.

¹¹² "Privat Group" profile, *Metallurgy in Ukraine*, <http://www.iron.com.ua/home/enterprises/privatgroup>.



business under such name. The real fundamental center of the Group is CB Privatbank PJSC. The name of this bank became the name of a whole group.

PrivatBank was founded in 1992. The founders of the bank and Privat group where Igor Kolomoisky and Gennady Bogolyubov, who still are among the five richest people of Ukraine.

In the 90s, Privatbank was already considered as "oligarchic". One of the top managers of the bank was Sergei Tigipko, who in 1997 became Deputy Prime Minister, and was responsible for economic reform in Ukrainian government. The Prime Minister was Pavlov Lazarenko, convicted later in the United States for corruption and money laundering.

Later Tigipko became minister of economy in the government of Viktor Yushchenko, and Deputy Prime Minister was Yulia Tymoshenko. It was acting as a guarantee for "successful development" of Privat Group. After leaving the government, however, Tigipko also left the main Privat Group business and now he has his own group of companies, based on the former part of Private Group.

2.3 The Kyiv Group

2.3.1. *Kostyantyn Zhevago: Finance and Credit Bank/Ferrexpo*

At the age of 38, Kostyantyn Zhevago was the Ukraine's fifth-richest oligarch on Forbes' 2012 list of billionaires¹¹³ and the youngest self-made billionaire in all of Europe. Zhevago is notable not only for his young age, but also for his political affiliation – alone among the top oligarchs, he was firmly with the Yulia Tymoshenko bloc – and is now independent in his current iteration as a Member of Parliament.

The story of Zhevago's rise to the economic elite is rather opaque: the son of a mining engineer born in Russia, he was raised in the Zaporizhye oblast', Zhevago began working as Finance Director of Finance and Credit Bank while still studying for an undergraduate degree at Kyiv State Economic University.

He eventually took the bank's helm. Some sources indicate that his start in big business was facilitated by the political-economic inroads of his university classmate and business partner Sergei Cherep, whose father Valery Cherep was a prominent Ukrainian government official in the construction and transport sectors.

¹¹³ "Meet the Billionaires in Ukraine", *Foreign Ukraine* 24, 9 January 2013. <http://foreignukraine24.com/meet-the-billionaires-in-ukraine/>

Kostyantyn Zhevago: “Ruthless” or Astute Businessman?

Kostyantyn Zhevago is portrayed by some independent news sources and bloggers as a ruthless businessman, and scandals surrounding him allegedly include the questionable bankruptcy preceding the privatization of his Poltava iron-ore facility, bribery of judges in cases against him, corporate raiding, and even the death of a businessman who suffered a heart attack allegedly following a series of shakedown visits by Zhevago’s associates. (“Zhevago, Konstantin Valentinovich”, *LigaDossier*, <http://file.liga.net/person/387-konstantin-jevago.html>)

Several reports suggest that Zhevago had a role in running Poltava into bankruptcy while it was still a state-owned entity due to debt that stemmed from failed attempts to obtain production inputs for the enterprise. Debt arose out of a scandal involving diesel worth \$1.8m which was needed to operate the Poltava iron-ore processing facility. The funds allegedly “disappeared” in a banking error paid out of Poltava’s remaining funds. The \$1.8m loss represented the final step in the facility’s move to bankruptcy, as then-Prime Minister Pavlo Lazarenko signed an order that the money be paid – again – by Poltava to settle its debt and receive the diesel. For more information on this case, see for example, “Gospodin Nikto” (oligarh.net/?/themeofday/1845) or “Finikovaya imperiya” (<http://2000.net.ua/2000/svoboda-slova/11629>)

His strong and enduring alliance with Tymoshenko likely cost Zhevago the 21% of Ferrexpo he was forced to sell in 2009 amid the downturn in world commodities prices and Ukraine’s economic crisis. If Zhevago had close relations with Ukraine’s entrenched banking and business elite, he might have been able to restructure his debt instead of being forced to retain only marginal controlling interest (51%) in Ferrexpo. Moreover, Zhevago’s businesses were subject to raids and investigations by Ukraine’s law enforcement authorities in the summer of 2011. While these actions were reported to be part of a broad crackdown by President Yanukovich on the nation’s oligarchs, there is no evidence of similar investigations into assets owned by Ukraine’s pro-Yanukovich oligarchs.

Zhevago’s Finance and Credit Bank was his start in big business, but his concerns in metallurgy and machine building are also important elements. The Poltava Iron-Ore processing facility, owned by Ferrexpo, has been termed the “pearl” of his assets. Zhevago reportedly purchased roughly 60% of the then-bankrupted Poltava in the mid-1990s, when he was still in his early twenties, and for pennies on the dollar. Later, when commodities prices rose, Poltava became the most profitable of Zhevago’s companies: in 2004, Poltava cleared a profit amounting to one-third of overall sales.¹¹⁴

2.3.2. Dmitry Firtash: RUE/DF Group/Crimea Titan

Although Dmitry Firtash was not raised in Kyiv, nor did he begin his professional career there, he is among those oligarchs who owe their rise to their relationship with politics and power. The business activities that propelled Firtash into Ukraine’s economic elite included basic food trading in Moscow toward the end of the Soviet period.

Firtash was little known to the Ukrainian public until 2006, when it was revealed that he owned 90% of Ukraine’s share of RosUkrEnergo (RUE). RUE was the opaque intermediary of the Russian/Ukrainian/ Turkmen natural gas trade. Further research uncovered the fact that Firtash had been involved in the establishment of RUE’s equally dubious predecessor, Eural Trans Gas in 2002, along with Russian-Ukrainian crime boss Semyon Mogilevich.

¹¹⁴ Ibid.

Before 2006, Dmitry Firtash was almost unknown from the public, both in Ukraine and Internationally. However, we have recovered traces of his activities in Moscow, in Germany, Ukraine and Estonia, and even earlier in Central Asia.

There is no evidence of Firtash having connections with organized crime. High suspicion were raised with M. Firtash's links with the Russian organized crime groups because this sphere of activity was highly criminalized in the late 1980s and early 1990s, and his work in Moscow would have afforded him the opportunity to intersect with various post-Soviet organized crime groups active in this sphere, including Georgian, Turkmen, Uzbek and Chechen organized crime groups. Indeed, Firtash established links with the Turkmen diaspora, which eventually led to his success in the natural gas delivery sector.

High publicity has been made about the possible link between M. Firtash and M. Mogilevitch, well known recognized boss of some Russian mafia groups and identified *vor v zakone*. This information has come in public domain only quite recently (after 2006). But the links might be very confusing.

In an 2001 article, we found mention that M. Firtash met the former Tajik President Akilov and his company, Highrock Holdings LTD bought 80% of the shares of the state owned Tajik joint venture AZOT, the largest mineral fertilizer's manufacturer of Central Asia. We found that the company Highrock, presented as a Russian company, is registered in Cyprus and founded by an Israeli company named Highrock Properties LTD registered in Tel Aviv. The same address in Tel Aviv was linked to the registration of another company called ETG, registered in Hungary and linked to an individual named Vadim Averbukh. This person was in turn linked to an Ukrainian company, Souzkontrakt-Ukraine, engaged in real estate projects, which was part of the Russian Souzkontrakt company, famous for its criminal background, mafia-style murders and arrests. The group, located in the Moscow region of Podolsk, is allegedly under the control of Mikhail Cherny and the Podolskaya organized crime group. The Director of the company RAO Souzkontrakt in Moscow and Podolsk is M. Sergei Efros, a Russian organized crime boss in California according to a 1996 FBI report.

M. Firtash also appeared in 2002 in the Moscow tax inspection register as one of the founder of the Russian company Rinway, together with Mrs Galina A. Telesh, Maria M. Firtash (his ex-wife) and Olga V. Zhunzhurova. According to the registrar, the Director of the company were at the time Elena A. Yargina and Alexander I. Krugliak.

Maria M. Firtash's name is Maria Kalinovska who is registered as Director of the German company MDF Transpedititions GmbH in Munchen, but also the Ukraine companies active in gas and oil transportation such as FDKM and Terminal, registered in 1994 in Chernivtsi and the company KMIL, registered in 1999 in the same city. She was also shareholder of the company EM-TE-ES (TMC) who was one of the founder of the late commodity company Naftogaz-Ukraine.

According to an FBI report dated 1996, S. Mogilevitch married Galina Telesh in December 1995. The same FBI report lists Mme Olga Zhunzhurova (33% of the shares of Rinway) as a member of the "Mogilevitch organization", which was found to be the wife of Igor Fisherman under the name of Olga Fisherman. Igor Fisherman was co-indicted by the FBI in the United States case on the YBM Magnex fraud case along with Semion Mogilevich and Anatoli Tsoura.

Last but not least, one of the Directors of Rinway, Alexander I. Kugliak, was head of the Moscow company Ritual Services, founded by one of the most renowned Mogilevich company Arigon, and Director of the other Moscow company called TV-Project, another company listed as Mogilevich's property by the FBI report of 1996.

These information criss-crossed have then made M. Firtash as "linked" to M. Mogilevich but faintly mentioned in the FBI 1996 report.

The very first media appearance of the name of Dmitry Firtash was in a short article of the State-owned Tajik news agency in December 2001. According to this article, M. Firtash met the Tajikistan President Akil Akilov. During the meeting, as reported in the press release, it was mentioned that the company Highrock Holding LTD was going to bring important financial resources for the reconstruction of the joint-stock company AZOT (nitrogen fertilizers). The question regarding the release of mineral fertilizers from March 2012 was discussed during the meeting, emphasizing that "today, the company works on maintenance's question of the Tajik enterprise with natural gas". The

article, written in a truly pure “soviet press style” mentioned the meeting at the level of state leaders: *“Akil Akilov and Dmitry Firtash were in the same opinion on the further cooperation of these enterprises, mutually advantageous both for Tadjikistan, and for Russia. At a meeting also have been discussed other questions concerning cooperation of these countries in other spheres of economy».*

This “cooperation” was in fact that the company Highrock Holdings LTD took an 80% part of the authorized capital of the joint venture Tadjik AZOT, owning the largest manufacture of mineral fertilizers of Central Asia.

We also notice that the article mentioned the company Highrock as a Russian company and M. Firtash as a Russian businessman.

Firtash’s business took a major blow at the signing of the January 2009 Russian Ukrainian Gas Contract, negotiated by then-Ukrainian and Russian prime ministers Yulia Tymoshenko and Vladimir Putin. According to the terms of the deal, Ukraine’s state-run natural gas enterprise Naftohaz replaced all intermediary companies, including Firtash’s RosUkrEnergo (RUE).

RUE had recently struck a deal to be the intermediary for 11 billion cubic meters of natural gas delivery from Russia to Ukraine for a preferential price of \$1.7 billion. The market value of this gas was more than double its price—an indication of the scale of profits historically derived by the intermediaries. This action was contested by Firtash, who claimed that the gas was owned by Rosukrenergo.¹¹⁵

The 2009 Russo-Ukrainian Gas Contract forms the basis of the current charges against Yulia Tymoshenko by the Yanukovich government, which argues that the price and quantity terms that Tymoshenko agreed to were highly unfavorable to Ukraine.¹¹⁶

At the time of the negotiations the Ukrainian government was bitterly divided when, President Yushchenko, in an apparent move against Tymoshenko’s negotiating position, allowed the Ukrainian Security Forces (SBU) to use their Alpha special forces in a raid on Naftohaz. The head of SBU at the time was Ukrainian oligarch Valery Khoroshkovsky, a partner of Firtash’s in the media sector¹¹⁷ and a close ally of Yanukovitch.

With Yanukovych’s return to power, Firtash’s fortunes improved. He had filed suit in the Stockholm Arbitration Court in 2009, claiming that Rosukrenergo was the legal owner of the gas reclaimed by Tymoshenko, and by the time the

¹¹⁵ *Transatlantic Energy Futures*, David Koranyi editor, published by Center for Transatlantic Relations, Johns Hopkins University, Washington DC, 2011. See chapter 13, “Transatlantic Energy Security and Ukraine: Politics, Corruption and National Interests” by Taras Kuzio, p. 267-287 and “Ukraine’s Energy Security Challenges: Implications for the EU” by Frank Umbach in *Open Ukraine, Changing Course towards a European Future*, ed. By Taras Kuzio and Daniel Hamilton, (Washington DC: JHU 2011)

¹¹⁶ Neither the 2009 Contract, nor the subsequent Kharkiv Accords negotiated between President Yanukovych and President Putin in 2010 were ever published, so their provisions remain unknown. With Yanukovich in charge for the 2010 negotiations, the Ukrainians got a better price for Russian natural gas, but at the cost of extending Russia’s lease on its Sevastopol Naval Bases for an additional 10 years.

¹¹⁷ Khoroshkovsky sold his share of the media business to Firtash in February 2013 after an apparent split with both Firtash and Yanukovych in December 2012.



suit was heard, Yanukovitch had been elected and his government did not contest the suit, despite the cost to the treasury.

The court ordered Ukraine to return the gas to Firtash, along with a 10% penalty payment. And over time a new Firtash-controlled company, the Ostchem Holding Company, registered in Switzerland in 2012, appears to have regained a place in the Russian-Ukrainian natural gas trade. In April 2011, the government cancelled Naftohaz's monopoly over gas imports and made it possible for Firtash to import gas directly from Russia and beyond.

As a result, Ostchem has been able to import gas at favorable prices from Turkmenistan and Kazakhstan, and supply gas to Ukrainian companies—which pay full price – leaving the Ukrainian state company Naftohaz to supply gas to the unprofitable and debt-ridden residential market.¹¹⁸

The Ukrainian treasury has not fared well from this trade, but Firtash's empire has, and his access to low cost natural gas was crucial in enabling him to buy up a number of chemical companies that specialize in fertilizer production, starting in 2010. Ostchem plants currently manufacture all of Ukraine's production of ammonium nitrate, and control four of Ukraine's six largest nitrogen fertilizer manufacturers, leading Firtash to be known in the media as Ukraine's "Fertilizer King."

The biggest gain that Firtash has made since Yanukovitch took office has been in Ukraine's titanium-production business, over which he has a near monopoly. While Firtash's first acquisitions in this metal sector predate Yanukovych's presidency, they began when Yanukovitch was Prime Minister during Kuchma's final term in office.

In July 2004, then-president Leonid Kuchma issued a decree to partially privatize Ukraine's titanium industry by requiring Ukraine's State Property Fund to combine three state-owned titanium enterprises, titanium dioxide manufacturer Titan (Crimea), the Irshansky Ore Enrichment facility (Zhytomyr oblast' in Western Ukraine), and the Vornogorsky Metal Mining Plant (Dnepropetrovsk oblast'), into one joint stock company to attract a "minority investor".^{119 120}

As envisioned, this conglomerate would provide the one private minority owner with a tremendous business opportunity: a titanium industry business, which was vertically-integrated and covered all steps in titanium production with the exception of titanium-based end-products. Further, it would provide the partners with a tremendous share of the world titanium market: Ukraine accounts for roughly 10% of known global titanium mineral reserves.¹²¹

¹¹⁸ "Dmytro Firtash Launches New Opaque Gas Intermediary" by Taras Kuzio, in Eurasian Daily Monitor, Volume 10 Issue 55, 3/25/2013.

¹¹⁹ "New Mining Merger Could Prove Lucrative", *KyivPost*, 15 July 2004. <http://www.kyivpost.com/content/business/new-mining-merger-could-prove-lucrative-21370.html>

¹²⁰ The term "minority investor" was never clarified, although it ultimately became 50% minus one share.

¹²¹ "Ukrainian Titanium Sector: Investment Opportunities," TOV Exim-Consulting, Kyiv, Ukraine: April 2011. <http://consulting.exim-capital.com/downloads/11.04.27-Teaser-Birzulivske-Nosachivske-Volchanske-deposits.pdf>

According to initial reports concerning the new privatization initiative, there were three entities – one Russian, one American, and one British – already interested in this venture prior to the presidential decree.¹²² It therefore seemed initially designed to attract foreign investment partnership. Ultimately, however, Dmitry Firtash's company, which hadn't been among the reported contenders, prevailed in the privatization toward the end of 2004, just before Kuchma's term in office ended.

Unfortunately for Firtash, Titan (renamed Crimea Titan) was the only entity that underwent partial privatization; Irshansky and Vornogorsky remained under complete government ownership, subject to a complicated "rental" arrangement with Firtash that stipulated Crimea Titan's exclusive ability to source and enrich ore using the state-owned enterprises.

This awkward arrangement left Firtash's concerns vulnerable to political change. In September 2009, the Yushchenko government refused to extend Firtash's lease on the Irshansky and Vornogorsky facilities, and the case went to trial. This matter was not fully resolved until January 2012, under the Yanukovich administration, when the court found in favor of Firtash and extended the lease on new terms – at double the prior leasing rate – until September 2014.

However, an even more advantageous opportunity for Firtash opened up in the meantime: in August 2012, the State Property Fund of Ukraine announced its intention to fully privatize the Irshansky and Vornogorsky facilities, and to divest of its remaining ownership in Crimea Titan.¹²³ Firtash's DF Group acquired these entities in December 2012.

2.3.3. Petro Poroshenko: Oligarch of Kyiv and the Black Sea Region

Petro Poroshenko is a Ukrainian oligarch involved in machine-building, shipbuilding, confectionary, armaments, shipping and transport in the Black sea region, and other industries through his parent company UkrProminvest and its many subsidiaries. Poroshenko was born in the Odessa region, a fact, which likely helped along his business development in the Black Sea region and the shipping industry.

However, Poroshenko's initial rise to economic and political prominence is more a result of his time in Kyiv: he graduated from Kyiv State University in 1989 with a degree in economics and began his professional career there, founding UkrProminvest in 1993. It grew to be one of Ukraine's largest conglomerates, comprised of more than 30 companies in the automobile industry, shipbuilding, media and other spheres.

Poroshenko has been prominent in national politics since the late 1990s, first serving as MP from 1998-2007, then as Secretary of the National Security

¹²² *ibid.*

¹²³ "Ukraine Plans to Privatize Crimea Titan, Volnogorsk and Irshansk", *Business Week*, 13 August 2012. <http://investing.businessweek.com/research/stocks/private/snapshot.asp?privcapId=61774051>



and Defense Council and Minister of Foreign Affairs under Yushenko, who is reportedly a close friend and godfather to Poroshenko's two daughters. He was Minister of Economic Development and Trade under Yanukovitch, and finally returned to Parliament at the end of 2012.

He is unaffiliated with any party, but holds an important role as Deputy Chair of the European Integration Committee. Poroshenko's outspoken support of Ukraine's integration into the EU is viewed by some as linked to Russia's imposition of strict controls placed on imports of several of Poroshenko's machine building concerns and his confectionary goods in August 2013, but Russia remains one of the largest markets for Poroshenko's businesses.

Poroshenko's UkrProminvest is active in the shipbuilding industry through its ownership of the massive Sevastopol Marine Plant on the Black Sea and the Leninska Kuznya Shipyard in Kyiv. Leninska Kuznya manufactures both civilian and military ships, and has just begun manufacturing grenade launchers.

Ukraine and the Weapons Trade

Ukraine's weapons trade in all of its forms – licit, quasi-licit, and outright illicit – is inextricably linked to its shipping and transport industries. Between 1992 and 1998, \$32 billion worth of heavy weapons, small arms, ammunition and other military equipment is estimated to have disappeared from Ukraine's post-Soviet stores. One major node along illicit weapons trafficking routes has traditionally been the port of Odessa, out of which notorious arms trader Leonid Minin operated in the 1990s in concert with Odessa organized crime boss Aleksandr Angert (criminal nickname "Angel") to deliver weapons to Charles Taylor in Liberia, the RUF, and others. Viktor Bout was known to have obtained weapons in Ukraine.

Even in the early years, at least some of the illicit arms sales from Ukraine were directed from the highest levels of power. In summer 2000, then-president Leonid Kuchma was recorded on cassette personally directing illicit weapons sales. In conversations secretly recorded by Kuchma's bodyguard Mykola Melnychenko, a voice identifiable as Kuchma's is heard both approving the sale of military-grade radar systems to Saddam Hussein for \$100 million and ordering the chief of Ukraine's intelligence agency to "take care of" Georgi Gongadze, a Ukrainian journalist who had doggedly tracked the involvement of the Ukrainian government in illicit arms sales. (Kuchma denies the authenticity of the tapes.)

The recent report by the Washington DC based non-profit C4ADS, which took a detailed look at the issue of Russian and Ukrainian arms transfers, concluded that by now, all major weapons transfers – whether licit or illicit – are directed by the Russian and Ukrainian governments. However, they still frequently use the logistical and financial networks known as the "Odessa Network" to facilitate and camouflage arms transfers.

"The Odessa Network" links suspicious port activity out of the river port Mykolaev ("Oktyabrsk"), which runs into the Black Sea, to several companies. The most prominent of these is a company called Kaalbye, which the report suggests owes its preeminence in the suspected maritime illicit arms trade to the political connections of its founder Igor Urbansky, Ukraine's Deputy Minister of Transport from 2006-2009 and co-founder Boris Kogan, who is closely linked with Russia's defense-industry firm RosTech.

A recent investigative journalism report from January 2013 suggests that Odessa's new "dry port" Evroterminal, used as a transport logistics and processing facility and a transit center for seamless integration of land-rail-sea transport, was allegedly established at the express behest of President Yanukovich – which the report critiques as a fairly unusual use of the president's time and attention for a local-level initiative. According to the report, all imports coming into Odessa must pass through Evroterminal, which is owned by Russian Pavel Lisitsyn who the report alleges is "closely tied with Leonid Minin, Aleksandr Angert and Aleksandr Zhukov, who were accused of illicit arms trafficking to Croatia.

See: Tom Wallace & Farley Mesko, *The Odessa Network: Mapping Facilitators of Russian and Ukrainian Arms Transfers*, C4ADS, Washington DC, September 2013.

UkrProminvest's car-manufacturing business is handled through its subsidiary Bogdan, which was founded in the early 1990s. Bogdan's first activities

included the sale of various Russian-built vehicles, and later exclusive rights to the distribution of foreign cars, which currently include Kia Motors, Hyundai, Isuzu, Subaru and Lada. In 1998, the company acquired the Cherkasy automobile repair factory, which specialized in repairing Russian-made Pavlovo buses and GAZelles.

In 1999, Bogdan transformed the factory's services to beginning to manufacture its own "Bogdan" buses. Despite the larger profitability of UkrProminvest's manufacturing and shipping businesses, Poroshenko is most widely known in Ukraine for his Roshen confectionary business, the largest in the country.

2.3.4. The Surkis brothers: UEFA, Kuchma and the "Kiev Seven"

Igor Surkis was born on November 22, 1958 in Kiev. He grew up in Odessa. He obtained a postgraduate degree at the Kiev Institute of Peoples Economy in 1981. Immediately thereafter, he was promoted to chief of repair and construction department of "Kievzhilremstroyontazh". This organization was part of the mayor's office in Kiev. In the period from 1988 to 1989, Igor Surkis worked as Deputy Chief of the Housing Authority of the Executive committee of Shevchenko district of Kiev, and after that he became a head of Department of the Ministry of Housing and Communal Services of Ukraine and held this position until 1990.

Continuing to work in the structures of city hall in Kiev, Igor Surkis became a Director of the joint venture Dynamo-Atlantic commercial center. From 1994 to 1998 he was general manager of Dynamo-Atlantic. In 1998, he became the first vice-president of FC Dynamo Kyiv. And since June 10, 2002 - President of the football club Dynamo Kiev.

The older brother of Igor - Grigory Surkis – who, since May 2013 has been one of the vice-presidents of UEFA and the Honorary President of the Football Federation of Ukraine (FFU).

Grigori Surkis was born September 4, 1949 in Odessa. In 1972, he graduated from the Kiev Technological Institute of the Food Industry as a specialist in "Machinery and equipment for food production" (Mechanical Engineer). From 1972 to 1974 Grigory Surkis was a senior engineer in the logistics office of Glavplodvinprom of Ukrainian SSR. Glavplodvinprom was a producer of cheap wine on a commercial scale. Since 1974 Grigory Surkis worked in Kharkov. He held various positions in the "Ukrainian building construction materials".

Then, in 1975, he moved to Kiev, where he worked with construction companies of Kiev mayor's office. As Deputy Head of Production and Processing Equipment of Kievzhilremstroyontazh, Grigory Surkis led the 1991 Office of equipment of Kiev City Council. At the same time, he became a CEO of the joint venture Dynamo-Atlantic.



In 1993-1998 Grigory Surkis was president of the Ukrainian industrial-financial group Slavutich. At the same time, he was president of FC Dynamo Kyiv (in 1998-2002 - Honorary President).

From 1996 to 2000, he headed the Professional Football League, and at the same time was the vice president of the Football Federation of Ukraine (FFU). In 2000, Grigory Surkis was elected president of the Football Federation of Ukraine. After that he was elected twice to the same post until he refused to participate in elections in 2012. Now he is the Honorary President of the FFU.

In 2004, Grigory Surkis became a member of the UEFA Executive Committee (without voting rights). January 26, 2007 he was elected a full member of the UEFA Executive Committee at the 31st Ordinary Congress organization in the German city of Dusseldorf. In 2013, he became vice-president of UEFA.

Many experts in Ukraine believe that largely due to the efforts of Surkis in 2007 UEFA has decided to conduct the European Football Championship 2012 in Ukraine and Poland. Surkis influence in Ukraine has been very significant. He was called "the proprietor of Ukrainian football". At the same time, in connection with the activities of Grigory Surkis, the press has repeatedly called into question the existence of corruption issues.

Some questions about conflict of interest were raised when discovered that one brother is the owner and president of FC Dynamo Kyiv, competitor for the first place in the championship of Ukraine, as well as on the participation in European Cups of UEFA, and the other brother is the vice president of UEFA.

In 2004, Grigory Surkis went to the U.S. Embassy for a visa, who was refused by the U.S. authorities. The US State Department official declared that Hryhoriy (Grigory) Surkis was denied a visa on the basis of a new rule that refuses entry to foreigners who were believed to be involved corruption activities (...) or had serious effect on US national interests¹²⁴.

The unnamed American diplomat said to Radio Free Europe (RFE) that *"the Ukrainian officials would include prominent supporters of presidential candidate Viktor Yanukovich, such as Viktor Pinchuk, a parliamentarian and President Leonid Kuchma's son-in-law; Viktor Medvedchuk, Kuchma's chief of staff and Surkis' closest partner; Interior Minister Nykola Bilokon; and Prosecutor-General Hennadiy Vasilyev"*¹²⁵.

According to RFE, in Ukraine's 31 October election, opposition leader Viktor Yushchenko narrowly defeated Yanukovich. But a runoff was set for 21 November because neither candidate won a majority of votes in the election, which was declared neither free nor fair by the United States as well as European and other election observers.

The fact that Grigory Surkis was accepted by UEFA in the same year (2004) as a member of the Executive Committee (first without the right to vote, and soon as full-fledged member of the Committee) might raise some interesting

¹²⁴ <http://www.ft.com/cms/s/0/36e18e28-2491-11d9-a110-00000e2511c8.html#axzz3T4ofRR0T>

¹²⁵ <http://www.rferl.org/content/article/1055985.html>

questions. The story of the denial of a U.S. visa was fairly well known. UEFA leadership could not be ignorant of it. The UEFA never placed any request to the U.S. authorities about Surkis.

We notice that M. Kuchma is still one of the minority shareholders of FC Dynamo Kyiv.

Grigory Surkis was for many years one of the leaders of the United Social Democratic Party of Ukraine (the "party of power", which appeared on the ruins of the Soviet Communist Party of Ukraine). From 1998 to 2006, he was twice a member of the Ukrainian Parliament of this party. In 2006, he tried once again to become a member, but failed in the elections.

Member and creator of the same clan known as the "Kiev business group" or "Kiev Seven" was Viktor Medvedchuk, leader of the Social Democrats (o), and now former ex-chief of the administration of President Kuchma. Medvedchuk is a major partner in all businesses of Surkis brothers. Earlier, as well as Surkis', he personally appeared as a co-owner of these companies in the Ukrainian companies register. Now almost all property is derived to offshore companies.

The history of the "Kiev Seven" business club began in the early 90's through the creation of the company "Ometa" followed by the creation of the national investment fund "Ometa XXI Century". This company was then proved to mostly be a "pyramid scheme" with thousands of defrauded investors in Ukraine¹²⁶. Grigory Surkis and his brother Igor established the Fund. Among the other founders were well-known lawyer Victor Medvedchuk and former mayor of Kiev Valentine Zgursky. Soon the group acquired a financial institution, the Ukrainian Credit Bank, led by Yuri Lyakh and Valentin Zgursky. It was the main bank of the entire "club". Even Tatiana Surkis, the ex-wife of Gregory Surkis was a minority owner of the bank, as well as relatives of the other partners of Surkis.

The group's main business was to supply crude oil and oil products from Russia. In 1994, "Ometa" was transformed into "Industrial-financial group Slavutich". According to Wikileaks cable, it was the company Slavutich who gathered the money from Ometa investors. While developing its oil operations, Slavutich started to develop agricultural projects and engaged in food trade.

Some months later, three new companies appeared: Slavutich-Agro, Slavutich-Nafta and the Ukrainian Gas Complex. Through the Ukrainian Gas Complex, the "group" bought Turkmen gas (in exchange of Ukrainian goods). According to Ukrainian customs reports, these trade operations went through a company called Caledonian Commercial Ventures Limited, registered at Road Town, Tortola (BVI).

In December 2004, when it became clear to many observers that the "Orange Revolution" movement was getting into power, happened a very resounding

¹²⁶ https://wikileaks.org/gifiles/docs/55/5538935_humint-ukraine-surkis-.html



"suicide"¹²⁷. Indeed, Yuri Lyakh, the Chief curator of the "Kiev Seven" financial interests and Chairman of the Ukrainian Credit Bank, killed himself in his office. According to the police reports, the suicide happened at about 7:00 am. He left a suicide note in which he asked the family to forgive him. The most remarkable thing in this case was the way he committed his suicide by cutting his own throat. According to the prosecution documents, M. Lyakh inflicted several blows to his throat with a paper knife blade. This very strange and unexplained "suicide" raised a wave of suspicions, and many experts and journalists continue to believe that Lyakh was killed because of his knowledge of many financial secrets of President Kuchma and the "Kiev Seven Business Club"¹²⁸.

After the death of Lyah, the Ukrainian Credit Bank came rapidly on the edge of bankruptcy. However, this did not happen because the bank was taken over by the Privat Group of Igor Kolomoisky. M. Kolomoisky is now a partner of the Surkis brothers and Viktor Medvedchuk in several energy companies in Ukraine.

Even if most of the untold stories of Ukraine power groups will remain unclear until decades, these stories show how Oligarchs adapt to the power changes and are able to keep their interests at the core of any of their moves.

¹²⁷ <http://www.ft.com/intl/cms/s/0/7a68dd68-593e-11d9-89a5-00000e2511c8.html#axzz3T4ofRR0T>

¹²⁸ <http://www.freerepublic.com/focus/news/1295477/replies?c=3>

E- Conclusion and Proposals

Conclusion and Proposals

With a country suffering the fallout from a major civil war, it is difficult to speak about issues such as corruption and organized crime. It is even more difficult to talk about justice, rule-of-law or organization. The necessities of the war are constantly overcoming all other aspects of a State organization that shall aim to the better living conditions for its population.

However, the current situation is a direct outcome of a lack of transparency, rampant and widespread corruption and inefficient organization, which undermine Ukraine's stability and possibilities since its independence.

Even if the country today is in a civil war, where Ukrainian citizens kill other Ukrainian citizens, the direct implication of foreign countries such as the EU, Poland, Germany, France, the United States, Israel and Russia in Ukraine's destiny turns the possible outcomes even more difficult, uncertain and dark.

Three agendas shall be conducted in a coordinate way in order that the Ukrainian citizens can again live in a relative security and within a state which organization will definitively cut the continuous trend of corruption and social discontent, poverty and violence which undermines the country's future in average 5-year's cycles:

- the peace restoring agenda
- the transition agenda
- the rule-of-law and constitutional agenda

Before addressing some of the proposals, we shall examine the results of our enquiries at the light of our objectives, as presented in the introduction of the present report.

1- Overcoming the criminal structures?

If we had observed a strong trend in institutionalization of Ukraine's law enforcement before the Maïdan, together with strong verticalization of power by the former President Yanukovich, the situation dramatically changed around March 2014, destroying all possible efforts to move smoothly toward a real state institution that might deliver the due services to the citizens.

Of course, the situation in late 2013 was not perfect by any means. Many failures were observed and the presence of disturbing capacities of organized crime groups was very important, depending on the regions and the domains. The inheritance of the past, together with an oligarch's battle for economical power by, among others, squatting the political debate and a set of complex laws and structures aimed at combating corruption, fraud, raiding, and narcotics, human trafficking, environmental crime etc. was more than confusing.

In addition to that, the press and the media, along with the NGO were quite free and could eventually play a counter-power to support whistleblowers, corruption facts and inquiries. The brutal and ruthless murder of the journalist G. Gongazde who was highly publicized acted as an electroshock to protect the freedom of press and Medias. However, this very same freedom was, in late 2013, being countered by a series of takeovers and mergers in the Ukrainian media groups. We also must remember that such high concentration of Medias in economical actor's hands is not a specificity of Ukraine but happens everywhere in the planet, especially in Western Europe and in France or Italy, with the exact same debates over the exact same questions of independence, reliability and quality.

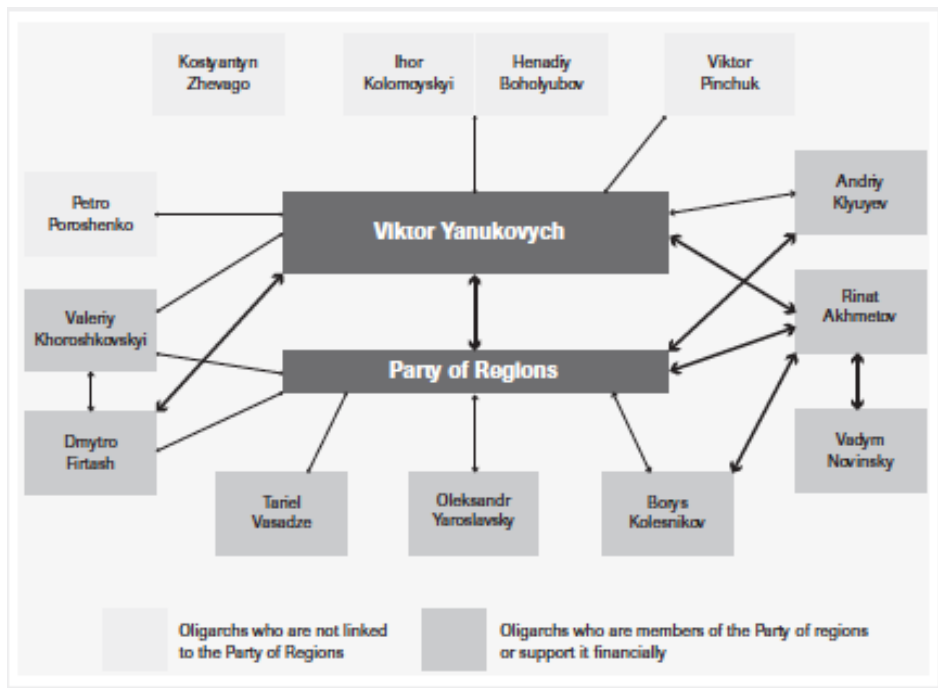
During the years 2010-2012, we assisted to a positive migration inflow in Ukraine, mostly from Russia, the CIS countries and Vietnam (due to the historical relationships of former USSR with this country)¹²⁹. From March 2014, the situation has been completely reversed, with a massive migration outflow to Russia and to the EU countries, mostly to Poland (2/3 of the EU million Schengen visa allocated to Ukrainian citizens is delivered by Poland)¹³⁰. As it happened with the integration of the Eastern European countries (including Poland), the massive emigration toward Western Europe countries created huge problems not only in terms of criminality exportation but also in terms of "political machine" and unfair competition in the labor markets.

The verticalization of powers observed under the Yanukovich presidency was in action both in the political actors (political parties and high administrative functions), in the law enforcement (with a more centralized system including

¹²⁹ http://www.migrationpolicycentre.eu/docs/migration_profiles/Ukraine.pdf

¹³⁰ <http://compasoxfordblog.co.uk/2014/03/the-crisis-in-ukraine-and-its-implications-for-migration-in-europe/>

police and justice officers both local and national) and in the economical system, which was the main point for criticism and accusation of corruption.



S. Matuszak¹³¹ observed the same trend of verticalization in 2011.

Indeed, the Yanukovich presidency saw the apparition of new “oligarchs”, such as S. Kurchenko, and the raise of the “family”, this group of trusted people around the former President. It seems that the system chosen by the former president was such that if he wanted to control the oligarchs, he needed to be the most powerful among them. And this was measured in terms of wealth, but also in the capacity to allocate wealth sources.

But this verticalization was not only in act in the “public” sectors but also, as it seems, in the criminal underground. The former prosecutor Renat Kuzmin detailed, in an interview released in June 2014, how some members of the “Family” were doing their best effort to control the illegal markets, such as narcotics, weapons, prostitution and gambling, through indirect ownership of the infrastructure, through the control over the police forces using racketeering methods against the criminals in order to control them.

Such analysis could explain why the criminal statistics we found were so erratic and in opposition with other’s dedicated state’s agencies statements and findings. Obviously, when you are engaged in such delicate strategies, which consist in coping with the criminal underworld, by controlling them, and benefiting from them, it becomes difficult to control every consequence of all these actions on the level of an entire country. Some failures are inevitable: a police officer arresting some protected criminal, a state agency investigator being caught by colleagues in some illegal trafficking, etc. The incoherencies are blatant and the efforts to hide them only create more problems than it can

¹³¹ S. Matuszak, op.cit. p.58

solve, deeply undermining the State's institutions reputation for fairness, efficiency or, basically, their capacity to apply the Rule of Law and justice.

Since the EuroMaidan, some similar attempts to verticalize also the “criminal” powers have been witnessed, mostly in the Western and southern region of Ukraine. But the main actors on these trends are now the far-right groups with the same dangerous visions, ideas and aims that brought Europe into war for more than 5 years.

In comparison, we shall say that no states in the world have really solved the matter of controlling organized crime structures: Italy, the United States, China, Russia, etc. have all undergone, in a moment of their history with a remarkable constancy, accepted to work with such organizations because of their disturbance capacities, of their economical power and electoral powers. It is only when the organized crime groups directly challenge the legitimacy and the sovereign power roles of the State that the institutions are strongly reacting by police, justice and even army means (as in Mexico).

The other side effect of such a compromise strategy between the rule-of-law and the criminal collaboration was a widespread corruption. As it was observed by the former National Security Service of Ukraine in 2013, the corruption was the norm from the very bottom to the top level: for medical cares, for education, for contracting and to ensure property rights, etc.

To this extent, the strategy followed by the previous government failed, but it is difficult to say if it was possible to gradually enhance this situation by turning more effective the application and applicability of the regulations.

The result of the Maidan was a complete disintegration of the informal rules at the bottom of the society, and a reorganization of the corruption links and methods at the top. The Maidan did not break the oligarchic rule in Ukraine; it merely just changed the role of the long-standing actors. But for the population, the Maidan had worsened the effects of petty corruption affecting their day-to-day's life and adding violence in it. An entrepreneur of the Odessa region recalled to our team that “before, you were obliged to pay to get the service, and if you paid, you effectively were delivered. Now, everybody asks for some money and you are never delivered” (interview in Paris in September 2014).

In conclusion, nor the previous rulers nor the current ones have had a chance to immediately control the criminal structures and decrease their disturbing capacities over the economy, society and politics. If the situation before the Maidan could have brought some possibilities to gradually reform the institutions and effectively bring Ukraine into a real, effective institution working according to their own effective regulations, the situation now is even more desperate. The war created new momentums and the economical crisis forces every actor to question daily the validity of any kind of regulation. Example at the top of the state are not even there and organized crime groups, backed and used by oligarchs have grown in power, some of them have legitimized specific “political branches” and they are in control of heavy logistical infrastructures in the country. The situation seems more like back again in the early years of independence and the population will suffer again



for decades. In addition to that, with an industrial infrastructure partly destroyed by the war or obsolete, nobody will rely on the criminal or semi-criminal groups (allied with industrial “patrons”) to complete the necessary investments in order to restore some revenues for the population and for the state.

In terms of illegal trades, black market have been unleashed by the civil war aside of narcotics, prostitution and human trafficking, cyber crime and organized frauds. Nobody talks anymore about environmental crime, which is accelerating the degradation of the lands, soils, water and air in the whole territory.

In the field of crime control and criminal structures, we shall conclude that the situation developed in a more dangerous way, with the legitimization of parts of these groups durably installed in power, that will undermine any economical and justice development. However, the situation is more dangerous for Europe than for Ukrainians. Of course, the Ukrainian population is suffering from privations, violence, corruption and arbitrary ruling in the countryside, suburbs etc. But this situation forces many Ukrainians to flee their country to the EU, some of them bringing in their luggages improved criminal activities and know-how. This flow of new criminal on saturated and organized illegal markets will force the existing criminal groups within the EU to reorganize and share the pie with another actor. If this will lead to an increase of the capacities of the EU organized crime groups (Ukrainians can bring lots of capacities, in weapons, in man work, in corruption schemes and economical crime), there will be also tragedies and killings in local mafia wars throughout the EU.

2- Restoring Justice and State legitimacy?

In the eventuality of a default of Ukraine, the one and only asset the country will have to build a new start is the legitimacy and the solidity of its own institutions. This is even more important that the current government has taken heavy measures to control any capital in and outflows in order to sustain the currency. This is also of utmost importance because Ukraine is very dependent on imports for the consuming goods for the population's use¹³².

The state legitimacy “re-building” has taken different shapes through different moves. But on the other side, the state “delegitimation” has also seen events and moves that was pushing the trend in the opposite direction. Moves and choices like the interim government in March 2014, the Presidential elections in May 2014, the decision to go to war instead of negotiation, the “placement” of some powerful oligarchs as governors or contested regions, the lustration law, the anti-corruption laws and committees, the general elections of the Rada in October 2014, all these actions are aiming to restore and rebuild the State legitimacy, both for the internal population and for the “western funders”, mostly the EU, the United States, the IMF and the WB.

On the opposite direction, the Crimea annexation, the takeover of the security apparatus by extreme-right groups, the number of crimes, slaughters, vexations, and bombing, the increase of racket, corruption and fear among the population as well as the rapid degradation of population's living conditions were all pushing on the other way, toward the feeling that the state was not anymore a state. This feeling and trend was exacerbated by the beginning of the civil war in the eastern regions that splitted the country in two parts, which effectively delegitimizes the Ukrainian state institutions.

In addition to the effective situation on the field, the “democratic” moves and events both held by one side by the Ukrainian institutions and on the other side by the separatists regions (referendum in Crimea, the general elections in the eastern separatists regions) introduced a relativity in the notion of legitimacy and allegiance, challenging the stabilization of the institution on one side with the right for the people to choose their own destiny on the other.

The war also exacerbated the “media” and propaganda war. The official media, the internet and the private media, in Ukraine but also in the EU, the US on one side and in Russia on the other side started an image fight, aiming at legitimizing its own position. But the “media war” has had a direct impact on the populations of the EU, because it challenged also the legitimacy of the EU institutions themselves on the matter, their independence, their quality, their capacities to bring to their customers a reliable information with intelligent comments and analysis (what peoples' pay for...).

¹³² <http://atlas.media.mit.edu/profile/country/ukr/>

The Ukrainian state legitimacy moves through elections also seems to be “medical patches” to a more deep cancer. The interim government was supposed to take over the country institutions with a parliament mostly dominated by confusion with a majority of deputies of the Yanukovich’s Part of Regions being present, even if harassed, threatened or paid to shut up or to abide to the new government. The lustration committee was put in place quite rapidly to “purge” the administration from the elements that could impede the new government to effectively govern the country. The Presidential elections of May 2014 were held without Crimea and with very weak representativeness in the populated eastern and southeastern parts of the country. These elections were mainly held to urgently fill a power vacuum at the top of the State’s institutions, restore a glaze of legitimacy and seize the place as quickly as possible to avoid any further discussions with any other party in presence.

The so-called and supported “democratic moves” will be no help for restoring Ukraine stability and legitimacy, inside as well as outside the country. Indeed, one of the main problems of Ukraine is a set of inadapted institutions to a reality that exists since the independence. In general terms, we shall speak about “strong centralized powers” in a country divided by numerous differences. Regionalism is strong in Ukraine and the clear division in the country between “westerners” and “easterners” shows to draw the same line across the country since 2000 at least. The southern part of the country, included Crimea, has always had its specificities as well as the Carpathian regions. In the meantime, the governors of the regions were nominated by the President and having no accountability toward the regional elected peoples and assemblies, which tends to centralize everything to Kiev in a deeply de-centralized culture.

These differences are also reflected in the economical repartition of wealth across the country, as well as the criminality rates and illegal trades. It also allowed parties and their oligarchs funders to have one single place to invest in order to get the power in their hands, creating an inflation in the “price” of the national parliamentary candidates (from USD 500'000 in the Sumy region up to USD1,5M in the Kiev or Odessa region, according to a party secretary interviewed in Geneva in September 2014).

In order to restore any legitimacy of the State, the Ukrainian population shall undergo an in-deep questioning through a constitutional committee or assembly that will define what kind of country they want and with which kind of institutions they want to be ruled. All such institutions shall consider as a basis that every power needs a counter power and be built accordingly.

The role of the law enforcement institutions must have a particular place in the debate. Both Justice and Police (security) forces shall be discussed and properly reorganized. A trend (and often a request from western states toward other states which are benefiting from western's money and credits) is to create ad hoc commissions within specific administrations. According to us, this is a mistake. In order to create a proper Justice apparatus, one shall create common regulatory and judicial practices that shall be run

independently from any other "power" (legislative and governmental). This common background, cultural, technical and practical, shall create a common justice culture among the Justice employees, from the judge to the clerk. The Justice employment shall be open and made upon clear and transparently publicized criterias with specified recourse schemes. The Justice enforcement systems shall be done inside the Justice employees themselves, through superior entities made of one single term responsible (judges and prosecutors). But the most important is to have a proper constitutional body that could state, in a total independence and in total transparency and publicity, about the constitutional rights and violations.

Law enforcement, especially the Police, shall be submitted to the very same criterias. Most important is allowing the "social representativeness and lifting" of such a strong corporatist administrative entity. Police shall be organized and trained but also controlled and supervised. But Police shall also be respected through the example and through the application of the law and regulation. Making too complex laws (often as a result of interests bargaining) or inapplicable, contradictory or abscond procedures will automatically lead to a delegitimization of Justice and Police forces. Simple and comprehensive laws are usually agreed by a overwhelming majority of the population that, in return, ensure that a society is maintaining a certain degree of equality, civility and civilization and reducing the legislative inflation from institutions that might consider their own citizens as criminals by default and the laws and regulation as merely ways to enrich themselves, their funders or their friends.

One of the keys to restoring legitimacy both for the state institutions and the law enforcement is to ensure a complete transparency through a use of Internet and media. By setting publicly the rules of the game, the decisions outcoming from such rules and the necessary documentation at everyone's disposal, a state ensures that nothing can remain secret, hidden, manipulated or unknown. It also empowers the citizens that need to acquire the necessary tools, in terms of interest, languages and knowledge, to be able to profit from such transparency. This means education.

The current moment is a good one for Ukraine and especially Ukrainians to enforce such reforms because of the war situation and the western pressure on the Kiev government on one side, and the Russian pressure on the eastern part of the country on the other side. The only way out of the crisis toward stabilization is the empowerment of the citizens through open institutions, clear rules of the game, transparent and understandable regulation and citizens' counter power to the policy's institutions such as legally binding referendums or other direct democracy means.

In terms of costs, such a system is way cheaper that the multiplication of administrative layers, commissions, committees, etc. And even if the economical situation of the single citizen may vary in a common low level, a cheaper administration that empowers citizens a always winning the game for three main reasons: the citizens are responsible for their own state as they got the means to overturn a bad situation; a bad decision or bad outcomes can be directly contested by the citizens and taken into account and finally,



nobody can decently oppose any kind of citizen's empowerment in the sake of democracy.

Ensuring these criteria, Ukraine can ensure an open society that will attract investment, favor innovation and entrepreneurship, lift up education level and ensure the social lift from the very bottom to the very top, being truly inclusive and correctly managed.

3- Model building

One of the aims of our research was to show if an independent study of corruption and organized crime, through the observation of illegal activities and law enforcement experience, could be possible in a country like Ukraine.

We must remember that originally we wanted to develop such a research in countries such as Bulgaria, Romania and Serbia; two countries that are already in the EU and one which is trying to get in. One of the statement we did since years was that the integration of the Eastern European countries in the “Western style” EU have not understood or properly taken into account the power of the crime structures and dynamics, leading to a completely distorted democracy and corrupted to the bones institutions. In turn, these characteristics were contaminating the EU countries with illegal market management know-how and empowering the large criminal organization existing in Western Europe, such as the Italian organized crime.

We tried to replicate a model we experienced on Switzerland years ago, but we faced the same kind of problems: lack of reliable data, loads of informal and unverified information, rumors and documents as well as reluctance from some actors to openly disclose facts and figures. In the Ukrainian case, we faced also the problem that most of our interlocutors were fighting each other internally for money, power or other benefits and were not disclosing the whole picture, mixing with talent true facts and aimed allegations.

In addition to these anticipated difficulties, our research fell right into a social movement that lead to a civil war, making it even more difficult to obtain any data collection, interviews or analysis.

In conclusion, we shall say that our model was not successful. We cannot state if this was because of the model itself or because of the rapid evolution of the situation, but our conclusion is that our model was not adapted to the Ukrainian situation as it appeared and developed along the months in which we completed our study.

4- Restoring peace

According to the January and February agreements made in Minsk, the ceasefire shall go along a separation line, which is precisely defined. The emergency for some of the main actors is to stop the war. But other actors have an interest in getting the war going on, for ideological reasons, for economical reasons, for power reasons.

The heavy propaganda from all sides and origins around this war pollute every possible voice incoming from the population that suffers from the situation.

But restoring peace does not mean only stopping the weapons to fire. It's also ensuring the conditions that these weapons will not fire again, in one week, a month, a year or even a decade. This only can be achieved in two ways: through an efficient state organization, that could provide an accepted framework for economical prosperity and inclusive power through representative democracy or other forms of population's power control, or through a dictatorial presence that will enforce the conditions of a ceasefire and be powerful enough to impose its views by force.

As all western parties are trying to be the promoters of a peace that eventually could lead to democracy, the conflicts of interests, the discrepancies between the talks and the acts are blatant to everybody. Other parties seem to be less talkative but also play between the promises of prosperity and power through force.

As the situation remains quite blocked for the moment, the situation can only lead to an armament of all parties leading to dictatorship in all sorts of ways: military, oligarchic, absolutist.

We believe that future cannot be acceptable for Ukraine. Even if the country shall split in two different countries, the situation and challenges will remain the same: how to ensure a viable prosperity framework for the populations.

The experience of the Balkan war shows that a ceasefire is good, but largely insufficient to organize such a framework, leaving the place to another "war oligarchy", leaving unsolved the fundamental problems that led to the war and sometimes creating other kind of problems undermined by poverty and failed education, massive corruption and total absence of any rule of law regime.

Until Russia and the United States will have an interest in continuing the war, the war will continue. With no weapons control, without any control over the black markets, the war profits and the financial flows unleashed by the war, the organized crime groups will grow more powerful in both sides and all places, and will ensure their power and places that will remain long after the war will eventually be finished. Corruption and nepotism as a "way to decide and solve

problems” will be steadily anchored in the mentality of the populations and the leaders.

In the meantime, as the production means need heavy investments to regain their efficiency or even be exploitable, the capital flows shall be very limited and the population could easily fall into slavery and terrible working and living conditions.

This will lead to further instability of the whole region, full of desperate populations that will better do whatever it takes than living as they do.

The only ways of stopping the war seem all to lead to military options. Until that certain equilibrium between military forces is found, the war will probably continue.

Even if the peace restoring seems to be the first priority, a continuous follow up of the situation in the field regarding the goods, services and other military supplies shall be ensured in and by all parties of the conflict.

This memory will be one of the basic elements on which any kind of reconciliation can be structured and any kind of system can emerge. It is not the OCO’s duty to propose a solution for any peace restoring in Ukraine as this exceeds by far its abilities and competencies. Our role is however to alert all parties about the fact that all big or local politics of war reinforce every day the organized crime structures that will then be in the position not only to manage Ukraine, but also to contaminate Russia, the EU and the United States.

As we stated in October 2013, Ukraine might be the “nemesis” of Europe. Even if this seems to happen under our eyes, there are still policies that can avoid and control such a dark future not only for Ukraine, but also for its immediate neighbors.

5- Transition agenda

If we assume that the weapon's game will cease one day, all policy makers shall get an in-deep look over the criminal situation in Ukraine in order to restore the rule of law. Such transition is never easy. The crimes committed during these periods are rarely punished because of lack of evidences. In the meantime, as the Latin America countries transition might show, a part of pardon and reconciliation is necessary to continue to live together.

One of the main problems of Ukraine since the independence was the partition of the country in two sides: one poor and western, and one richer and eastern. The cultural differences are not enormous but the war and decades of corruption exacerbated the differences, sometimes into hate.

The weight of history is also something that any transition shall keep in mind: from the second world war to the current civil war, the population of Ukraine forged its very specific culture and mind: astute, intelligent and in the meantime, full of common sense but always ready to push the limits of what it is possible to do or not.

One of the main concerns, which undermined all the Ukrainian governments since the independence, was the institution organization. This organization has not yet changed. The regions are powerful in Ukraine but the institution is still in balance between a centralized powerful state and a regionalized federal state. The historical totalitarian past of the country, since the Czars to the USSR periods are both supporting this contraction between the desire of having a strong central power and the will to be left alone regionally to cope with their own problems and find local solutions.

It seems that in a mid-term future, Ukraine will never be in the capacity to be a centralized state. Indeed, the institutions shall leave more space to the regions and create a true federation such as Germany, the US or Switzerland.

In the aim of reforming the Ukrainian institutions toward a more open and inclusive society and institutions, the country shall look toward the experience of other countries such as Latin America countries, some of the Asian countries and South Africa. The latters, despite being deeply divided by suffering, hate and sinful institutions, may have reconstructed a way to live together in peace and built the conditions to sometimes forgive and sometimes punish using Justice ways and means. And they shall never forget, as these experiences shows us, that forgiving is not forgetting and punishing is not solving all problems. The necessity to know is not always the same and might effectively be stronger, as history shows, as shall be the willingness to punish.

The aim of any kind of transition process shall aim to the involvement of the whole population, in a structured and open way, to design a new Ukraine in which every Ukrainian shall find its own place. This shall take place in a way

in order to allow a discussion about all the events that happened from the ousting of the former President, included the Crimean annexation by Russia, and the redefinitions of priorities, decisions, structuration and decisional powers.

Such transition process shall also be the aim of the external powers, especially the EU. Because EU taxpayers are supporting the fees of a civil war in Ukraine and because the EU structures and civil security itself is damaged (and will be even more if stability is not ensured in the region) by the flow of criminality incoming from a war region, involving states and rulers themselves and creating dangerous precedents for all western democratic states' citizens.

EU shall not repeat the mistakes made in the Balkans to stop the war and ensure the positions of extremists. We have now more than 15 years of experience to analyze the outcomes of such disastrous policies: widespread corruption, continuous high unemployment, ecological disasters and creation of "mafia-states" or closed extremists communities, booming of any illegal trafficking, hardly developing infrastructures and misery among educated populations.

More important for the law enforcement agencies and powers are to ensure a proper regulatory stability and cutting out the raids on assets and property that completely undermine the capacity of domestic and foreign investors to create value in Ukraine over a certain period of time through investments and innovation. If the new Ukrainian law enforcement will not be able to ensure such an effective regulatory and enforcement framework, the country will plunge down into the chaos very soon with short terms investments and predation that will leave the populations with absolutely nothing and will leave the country with no means of production except slavery.

5.1. The Institutions, the State

The experience of State legitimacy rebuilding after a major breakdown, as a change of regime, revolution, civil war etc., is the creation of Constituency Assembly. This seems taking place only in countries where some conditions are verified, especially the existence of political culture, intellectual elite, historical background and possibly not extreme poverty.

Any Constituency Assembly that had been a partial or total success over history has ensured a broad representativeness of the population. In the case of Ukraine, that means that in any case, a Constituency Assembly shall include representations from the Eastern populations now responding to the DNR or the LNR.

During the first months of the Maïdan, the Ukrainian population has shown an impressive democratic maturity. Even if the event was then recuperated by some other groups abiding to their own particular motivations and agenda, which were not totally democratic (lots of observers call them fascists with



quite obvious reasons), they have shown that they have the will and the capacity to take over their own destiny in a proper and democratic way.

In order to rebuild a proper State legitimacy in Ukraine, we believe it mandatory that a Constituency Assembly shall take place, in one form or another. The current situation has brought such volatility, both in Ukraine and abroad (especially by the deterioration of the relations between Russia and the EU's populations) that it is a mere illusion to ensure some State continuity in such a situation. The current institutions are not efficient at all. They give the impression to hold only because of the war. As we have seen these early days of March 2015, the respect of the Minsk agreements which have effectively seen a withdrawal of the heavy weapons along the ceasefire line have lighted other fires in Kiev almost immediately: polemics, disputes, fights, etc. As it is, the future shows signs to slip over a more autocratic government in order to control the forces that are currently ruling the country (including organized crime groups) and to avoid a total chaos. This will lead or to a soviet-style totalitarianism, or to an extreme nationalism. It seems currently, with the help of some EU members, that the path looks more the second than the first option. In any case, both ways might prove to be a disaster not only for the Ukrainian population but for the whole EU populations as well.

A Constituency Assembly shall first propose a selection mode of its members. Different possibilities exist, all having taken place in the recent history of such a basic state body: representative elections through political party representation, representative direct elections of candidates, quota of selected populations representation through elections, but there is one mode, assay new, which was used during the Icelandic Constituency. Of course, Iceland is a very small country with a reduced and homogeneous population. However, nothing might say that it wouldn't work in a larger scale. The Icelandic mode allowed any citizen supported by only 10 signatures of other citizens to be candidate. Then, the choice of the members was not done through elections but through random choice among these candidates, like a lottery. The advantages are numerous: it is a direct representative mode, it's quite inexpensive and it's very transparent as anybody can control and follow the candidate's selection. It also directly empowers the citizens and by its totally democratic representativeness, it stops any criticism about any kind of "elitarian" seizure of the Constituency Assembly.

The organization of such Assembly shall be divided into commission which, with the help of Ukrainian and foreign experts, shall design a new ground for a new state, choosing first the form of the state (nation, republic, confederation), the governmental system (presidential, governmental, mono or bi-cameral) and design the powers of each body ensuring an autonomy and counter powers between the four big powers which are the government, the parliament (bi-cameral or not), the judicial powers as well as the media/NGO's and civil society powers. In the situation of Ukraine today, any design shall ensure balanced powers with counter powers. Of course, one shall argue that such a system is more difficult to manage as it requires more discussions, broader coalitions, more compromises, but this is the essence of democracy. One also shall define how much power the citizen will have and this might be

a good idea, to our view, to ensure mandatory direct democracy tools that can be at the disposal of the population at different levels (national, regional, and local).

The Assembly shall review the Constitution in its entirety, legislation and legal framework with two principles in mind: what is the purpose of it (a law, a principle, a process, an administrative body) and is it comprehensible (not absconds, complicated, tautological or contradictory) because law shall always be a broad social tool. If not, it soon degenerates into some oppressive tool for plutocrats.

As it seems to be a long and delicate work, a turnover of the members can be established every 6 months in order to involve as much population as possible in the process.

5.2. The Justice and Law enforcement

The lustration program might prove to be a disaster for Ukraine, especially in the law enforcement sector.

The justice apparel needs lots of persons to be properly managed and compliant with a legal proficiency that sounds professional. The Ukrainian laws and regulations are complex and sometimes contradictory. The position of the high level officials such as prosecutors, judges, but also judicial assistants, clerks and legal advisors and specialists are the core of all regulatory frameworks allowing a country to be compliant with any stage of development within the rule of law. If the top officials were all politically nominated, it is normal that in every overturn of majority, government or regime, the so-called “political officials” are replaced by others, more aligned with the new majority. But the lustration has cut off all the judicial officials, from the very top to the very bottom, in different layers and timing. The replacement was not a success given that the general Prosecutor has changed many times, that the confusion on who was in charge and who had the right to sign and engage the judicial Ukrainian authorities and failing to conduct decent inquiries on important events, such as the killing of protestors in the Maïdan.

Imposing the lustration inside the judicial apparel is a major political mistake for one that have a vision in building a country’s third power – the judicial power – compliant with some western standards and curbing widespread corruption that was *de facto* existing. First because it sacks out most of the indispensable professionals needed to “run the machine”, but because it replaces a political allegiance by another one, under the will of building a more independent and corruption-free judicial administration. In fact, it just replaces the older officials with new ones that are submitted to the exact same rules, and everybody knows that the same causes will produce the very same effects.

Replacing a complete set of legal professionals is not an easy task at the size of a country like Ukraine. The conditions posed by the lustration law made



that all the oldest professionals were sacked and found themselves without no resources, opening the way to brand new allegiance and “*compromissions*”, and in the worst scenario, replacing the “old bosses” with the “new bosses” that will turn to the elders to develop their networks and in the meantime, ensure the glaze of professional ability. The old sacked one will have no other possibility to turn even more corrupt if they want to survive economically and socially in a new Ukraine. This will undermine again the legitimacy of the judicial administration and make it even worse than it was before.

Historically, we observed that every major forced change of the top judicial authorities, in Western countries as well as in countries like China, Russia, India or in Africa, resulted in major judicial policies. If these changed were followed, explained and controlled by some democratic processes, like the prohibition in the United States and the control over the trade unions in the 50s, in Italy during the 80s and 90s under the impulsion of the judges Falcone and Borsellino and then through the pool Mani Pulite of the Milano Court, the results were somehow positive for the justice itself. But when the judicial officials were replaced brutally by the political power alone, this has always led to some disastrous events: the Russian transition during the 90s, the current Argentinean situation and the previous one in 2001 are some vibrant and tragic examples. The current Ukrainian government strongly relies on the Georgian experience made by the Saakashvili government which had as a result to significantly curb the influence of the Georgian organized crime groups inside the country: cutting off their supports and protection inside the police and justice administration, a lot of Georgian bosses were put in jail but a large part of the organized crime groups flew from Georgia to colonize Europe, establishing proper action bases in Switzerland, Italy, Romania, Germany, Spain and France, importing their criminality into the core of the EU.

The selection of the judicial officials is never simple but shall be as away as possible from any political decisions in order to ensure a proper independence and a proper counter power to the political one. It is difficult for a former communist cultural history that has seen and experienced justice as a “usual” arm of the political power in place for so long to even think about such important apparel to be effectively independent. This might be one of the major cultural changes that a western culture as EU might bring. But that shall also mean for these officials to be independent from western influences too. It might be too demanding for a country like Ukraine to ensure something that even the western countries have not been able to completely enforce since more than six decades after the Second World War, but with some success too.

Any process of the replacement of the personal of the judicial administration shall not be done upon blurred and biased political criterias but upon personal abilities, integrity and dedication. The examination and nomination process shall be completed upon strict criterias and peer reviews, being as transparent and public as possible (conditions, timings, notations, decisions, reviews, responsibilities etc.). Any surveillance and control processes shall be enforced by the peers in a transparent way in order to immediately dispatch any threats, menace or pressures (including corruption). There are several ways to ensure

the independence of justice, the American one being one of the most far-ended, nominating the judges for life ensuring them a comfortable revenue and having social respect, economical guarantees and state powers delegations in exchange of independence, dedication and integrity. Peers commissions with no fixed and no single responsibilities shall enforce controls and surveillance of the judicial officials through a strict and defined judicial process and procedure in order to avoid arbitrary and ensure the State normative primal rights over all other kinds of allegiances.

5.3. The Police and Law enforcement

The lustration process will prove to be also a disaster for the police forces for many reasons. The first reason is because, as the “armed arm” of the State normative upon a given territory, the police are trained to use the weapons and to conduct inquiries and interrogations. Even if the Ukrainian police suffered from heavy corruption, from the top to the bottom of the administration with different magnitude of possible damages to the society, the lustration process will leave many trained individuals without any resources for themselves and their families. In a macro point of view of employment, firing 500'000 persons to re-engage 500'000 other persons is neutral, you still find half of a million of trained persons without resources who have the hardest difficulties to find some other jobs in other sectors. The industries that will engage most of them are private security agencies and organized crime groups. They will find there a plethora of good if not excellent resources to exploit, bringing new possibilities, new powers and new dangers for the civil society as well as for the institutions.

But still you need to engage quickly a mass of new police officers. Where the institution will find them? How will they train them? How are they going to ensure that being hired mostly upon their political views, they will guarantee to act according to the law and not according to some “political wills and orders”? This will just start the old story again, with even more danger because any massive hiring shall attract agents from organized crime groups or other extremists to become effectively the “armed-arm” of the State. We have seen numerous examples of these hirings in many cities of Ukraine already. The lustration process have gone under a massive “criminalization” of the police instead of an in-depth reform from the local police to the top national law enforcement agencies.

Again, one solution shall be to smoothly re-engage the personal upon strict and transparent criteria, service-by-service, place-by-place and creating specialized units working with specialized prosecutors, always acting in pools instead of alone.

Models of the police organization exist all over the world. However, in terms of efficiency as well of integrity, well-defined roles and competencies between the different branches and a repartition over the national territory, from local to national shall ensure an effective control and presence of the institution as well as certain efficiency. The organization shall promote the internal

movements and counterbalance powers between different arms and branches, territorial competencies and *de facto* autonomy. This autonomy is very important in major security crisis. In Italy, the Carabinieri are living in dedicated barracks and they usually come from other regions to the one they are acting on. In Mexico, it is the Marines that are the most involved in the law enforcement operation against the organized crime groups because of the same reasons. The isolation reinforces the autonomy in crisis periods but it also reinforces corporatism among the branches. That's why such isolation shall only be reserved to emergency situations on a determined period of time (if possible).

The EU and all other police forces shall play a major role in training and joint operations in order to bring up-to-date know-how and support, but also to reveal wrongdoings and corruption.

A dedicated civil, police and judicial committee shall be quickly established to ensure some continuity over the judicial ongoing cases and preserve the criminal memory of the country. If not, this will allow loads of criminals to restart their careers with a blank sheet, and will leave all the other countries without any possibility to curb Ukrainian organized crime acting abroad.

5.4. Tenders, public procurements and State's money spendings

We have mentioned in our report that many of the last tenders for troops material were done without any public tenders. One of the major vehicles of corruption at a state level remains the public works and supplies through private or private-like agreements.

The previous government had established a very strict process for public spending, imposing a public national and international tender for any public spending from EUR 10'000. The Rada adopted this regulation before 2010 to comply with the EU regulation on public spendings. However, the costs to organize a tender were far higher than this sum, creating spaces for private arrangements and informal processes to curb such an economical aberration. These arrangements, politically backed and agreed, created also a lack of data about public spending and state budget calculations. At the end of the year, there was always less than expected because a lot of spendings have never been forecasted, planned, agreed and registered.

In addition to that, we shall remind that every Rada's deputy had the legal right to access every document from the administration, in an attempt to bring more transparency and more control over the administration's work. That led to a different use of such right in order to turn it into a competitive advantage on the public spendings of the administration to be privately negotiated before anything goes public. That was one of the main tools used by the financial supports of the deputy's elections to get their return on their investments.

According to current observers, and even some deputies themselves, the game continues today, especially with western money and the war efforts requiring a lot of spending for equipments and supplies.

In our view, the Internet is offering huge possibilities to bring transparency in the process of public tenders, at all levels. As the experiences in difficult countries such as Mexico have shown, the creation of a publicly accessible database listing all the tenders and procurements, the conditions of each of them and the persons and companies excluded of any participation for different legal reasons which are also specified. Ukraine has already started to implement this system especially for the public procurement financed by the EBRD and other international financial institutions or development agencies.

However, we believe that the “secret” of an offer in a public procurement shall be completely public, allowing any interested party to propose a reverse bid and to get into a public scrutiny about the feasibility of their offer. This should obviously be implemented in all states of the world, not only Ukraine. Regarding public money, there is no point in being secret in an offer as long as the conditions and criteria for the procurement are completely public. This shall apply not only to supplies, infrastructure and goods, but also to services and expertises.

As the Greek government did, the Internet publication shall be the official one, with the capability to use what is officially published in a court litigation or mitigation. In that way, the State still controls the information, saves money and ensures a legitimacy of its choices because everybody can see the offers, what is proposed, at what price and in which timeframe. It also curbs massive corruption by turning more difficult the private-to-private agreements on these public spendings. The only way to enter into corruption schemes in such a publicly scheme is to establish cartels of companies that secretly agree on who is going to get which market and how the winner will subcontract the works. But even in these cases, solutions exist, notably the ones developed by the City of Milano for the Expo 2015.



6- Building a new Ukraine ?

Who does have the interest in building a Ukraine that might be more efficient for its citizens, restore the Rule of Law and replace the legality at the core of the economical, political and civil society's lives?

Each of the international actors seems to think that its own model is better for Ukraine and tries to impose it for its own exclusive profit. At the end of the game, the losers will still be Ukrainian citizens. Unless they use the small vacuum spaces left in-between the international competitors to create and impose their own future, adapting models to what they think is more adapted to the Ukrainian reality. Such path is difficult. As it was reminded to us in February 2015, "the future of Ukraine hardly depends on the Ukrainians".

However, the future always starts with imagination and turns into reality with fewer fights and more negotiations.

Geneva, the 15th of April 2015

Appendixes

Appendixes

- 1- The public corruption recent past : Lazarenko and Tymoshenko case
- 2- Corporate Raiding in the media recent past: the TVi saga case
- 3- Corporate Raiding in the services recent past: the SWISSPORT case
- 4- Information and analytical information on the state of combating organized crime and corruption in 2013
- 5- Ukrainian Organized Crime Groups: A Behavioral Model
- 6- In the Tentacles of Corporate Raiding: Benia, Judges, Kiperman and Others
- 7- State of combating organized crime and corruption in 2012
- 8- Relevant and high-profile corruption criminal cases (proceedings)

1- The public corruption recent past : Lazarenko and Tymoshenko case

In Ukraine, as in many other post-Soviet states, the alliances between organized crime and the political elite began in Soviet times, have continued and strengthened in the intervening years, and today still play a key role in economic, political and foreign policy making at all levels.

It is fairly impossible to address the topic of public corruption in Ukraine without getting a close eye on the cases of the two former Prime Ministers, Pavol Lazarenko and Yulia Tymoshenko. These stories are indeed very important today, as the Tymoshenko case has become part of the EU-Ukraine dialogue.

The best known of these have been former Prime ministers Pavlo Lazarenko and Yulia Tymoshenko and Interior Minister Yuri Lutsenko, but there have been prosecutions of lower level officials as well. This public settling of accounts has greatly enhanced our understanding of corrupt interactions between politicians and organized crime at all levels.

Interestingly, it has helped illuminate the international links of Ukrainian crime, and the financial transactions involved, as Ukrainian law enforcement has worked diligently with foreign counterparts to uncover these links, and to learn the latest techniques for “following the money” in corruption and criminal cases.

Still, the Lazarenko case is worth looking at in greater detail, since it is the best-documented case of corruption at the highest levels of the Ukrainian government, and its ramifications continue to this day. Pavlo Lazarenko was a leading member of the Dnepropetrovsk region, starting out as a tractor driver and then moving rapidly up the ladder to become President Kuchma’s representative in Dnepropetrovsk, governor of the region, First Deputy Prime Minister in charge of energy issues, and finally, in 1996, Prime Minister.

Reports of corruption followed Lazarenko throughout his career, from his early years in agriculture through his tenure as Prime Minister, but all investigations were squelched as long as he was in favor with President Kuchma.¹³³ But in the summer of 1997 Kuchma and Lazarenko had a falling out. Lazarenko was forced out of office and decided to challenge Kuchma for the presidency.

He thereupon formed an opposition party (Hromada) and won election to Parliament, gaining immunity from prosecution. By 1999, however, under threat of losing his immunity, he fled to Switzerland on a Panamanian passport, where he was charged with money laundering and jumped bail. Only then did the Ukrainian government open a criminal investigation into his case.

¹³³ Much of the analysis in these two paragraphs comes from “The Case of Pavlo Lazarenko: a study of High Level Corruption” Part I and Part II, by Roman Kupchinsky, published in *The Ukrainian Weekly*, Feb 17 and Feb 24 2002.



After jumping bail in Switzerland, Lazarenko used a false passport to enter the U.S. and sought political asylum, but U.S. authorities instead indicted him on 53 counts of money laundering, conspiracy to commit money laundering, wire fraud and interstate transportation of stolen property. In 2004, during a lengthy trial in California, the judge threw out 24 of the counts and the jury found him guilty on the remaining 29.

Five more years of legal wrangling ensued, until he was finally convicted on eight counts of money laundering and sentenced in 2009 to 97 months in prison, a fine of \$9 million and forfeiture of \$22 million in assets. Litigation continues over approximately \$250 million in assets that were unearthed during the course of the investigation, and have been frozen in accounts in the U.S., Antigua, Switzerland, Liechtenstein and Lithuania.¹³⁴

Only last month, the US authorities seized the former Prime Minister's 20 rooms mansion in San Francisco, purchased for almost \$7million, and a Picasso lithograph that it described as "the illicit spoils of office." Lazarenko's trial did not produce a full accounting of his illicit activities, since it only considered criminal actions whose profits could directly be linked to money that was laundered through U.S. banks.

Still the basic pattern of Lazarenko's activities emerged clearly, even if the full extent of his profits did not. He essentially extorted a share of the profits (in some cases 10%, in some case 50%) from transactions and businesses for which he, in his official capacity, was able to provide contracts, permits, licenses or government guarantees. The transactions that figured in the U.S. trial allegedly netted Lazarenko approximately \$114 million over 2 years, although his overall profits may have been considerably larger.¹³⁵

The money and assets were registered in the names of associates and family members and the profits were sent out of the country and laundered through a variety of banks in numerous countries including the U.S. The individual cases referred to during the trial ranged over a wide number of sectors, including imports of cows, pre-fabricated houses, gas and metal trading. The indictment noted that several associates of Lazarenko had amassed multi-million dollar fortunes through their association with Lazarenko. Those cited included Itera founder Igor Makarov and Yulia Tymoshenko.¹³⁶

¹³⁴ Jason Felch "To Catch an Oligarch " in San Francisco Magazine, Oct. 4 2004. (www.centerforinvestigativereporting.org/articles/to-catch-an-oligarch), see also "The Case Against Pavlo Lazarenko, BBC News, August 25 2006.

¹³⁵ The World Bank estimates that Lazarenko embezzled between 114 and 200 million dollars over the course of two years (1996-97) from the Ukrainian government, a sum which, on an annual basis represents between 0.2 and 0.4 % of the country's GDP. This report, which cites Transparency International statistics, puts Lazarenko at #8 of the world's 10 most corrupt leaders, but it is based on very incomplete data. See "Stolen Asset Recovery Initiative: Challenges, Opportunities and Action Plan, June 2007 p11 by the World Bank.

¹³⁶ Lazarenko, USDDC Amended Complaint June 30 2005,pdf (See www.star.worldbank.org/corruption-cases/node/18566)

Although Lazarenko's links with organized criminal groups were not investigated in the case, some information emerged during the proceedings. One of Lazarenko's closest associates was Petr Kyrychenko, who had been arrested along with Lazarenko both in Switzerland and in the U.S. but won a shortened sentence and the right to remain in the U.S. by becoming a cooperating witness for the U.S. and testifying against Lazarenko.

During the proceedings it became known that in 1995 Kyrychenko had been arrested in Poland and charged with possession of a gun that had been used in a 1994 organized crime killing. However, because Kyrychenko had the official position of "Advisor" in Lazarenko's government at the time, the Polish government allowed him to be released on bail. Kyrychenko then jumped bail, went to the U.S. and continued to work on Lazarenko's behalf.¹³⁷

For today's Ukraine, the most explosive aspects of the charges against Lazarenko concern his business relations with Yulia Tymoshenko, a longtime political ally, who at that time was the president of United Energy Systems of Ukraine (UESU), a natural gas distribution company that Lazarenko was involved with. As Deputy Prime Minister (1995-6) Lazarenko was in charge of the energy sector, and "reformed" the natural gas importation and distribution system to provide monopoly rights for individual companies to purchase natural gas from Russia's Gazprom and re-sell it to specific regions of Ukraine.

UESU was awarded the lucrative monopoly for the Dnepropetrovsk region from 1995-1997. According to the court documents at Lazarenko's 2004 trial in California, in 1996, Lazarenko obtained for UESU a Ukrainian state guarantee to pay for \$200 million of gas from Gazprom. In 1995, according to the documents, Tymoshenko had created a separate company, United Energy International Limited, (UEIL) which was given title to the gas from Gazprom, and received the payments from the customers who received the gas, instead of UESU.

All total, the complaint recorded, over the course of six months in 1996, that UEIL transferred approximately \$140 million in payments to Somolli Enterprises, a Cypriote company controlled by Tymoshenko. UESU, UEIL and Somolli Enterprises in turn paid Lazarenko nearly \$161 million during 1996 and 1997. Meanwhile, since UESU defaulted on its payments to Gazprom for the gas, the Ukrainian state ended up footing the bill.¹³⁸

All judicial actors who have been involved into the Lazarenko proceedings have agreed and demonstrated the very close link between the latter and Tymoshenko. On one hand, the former PM Lazarenko faced two trials, one in Switzerland and one in the United States and served years of prison, being considered as the paradigm of the political corruption. The other, the former PM Tymoshenko, was sentenced in Ukraine for the same facts and seems still to be considered as a political victim.

¹³⁷ See James Kostiw, "Pavlo Lazarenko: Is the Former Ukrainian Prime Minister a Political Refugee or a Financial Criminal?" in *Organized Crime and Corruption Watch*, published by Transnational Crime and Corruption Center (TraCCC), Volume 2, Number 2, Summer 2000.

¹³⁸ Lazarenko US DOC Verified Complaint May 14 2004 pdf.



In the summer of 1996, Pavlo Lazarenko has, by his advisor Petro Kirichenko, which was at the same time the manager of foreign bank accounts of companies that were controlled by him and belong to him, met with the criminal "authority" Oleksandr Miltschenko, and consciously available via his connections in the criminal world, commissioned him to murder of the state representatives and the influential entrepreneurs of the Donetsk region of Ukraine Jewgen Scherban with the will of the removal of the latter as its competitors in the economic and political activity.

For the execution of the Order of Pavlo Lazarenko has *aufgeführten* Oleksandr Miltschenko at one of the organizers of the gang, the Staatsbürger Russia Magomed Aliev and through him to the Anführer the gang - former inhabitants of the city of Donetsk Jewgen Kushnir and Anatoly Rjabin that in the previous have organized the murder of the president of the football club "Schahtar" Ahatj Bragin on the stage "Schahtar" in October 1995 and who have committed a number of other serious crimes - turning to kill the proposal Yevgeny Scherban. At the meeting of conditions of payment for this murder, Lazarenko has PI met in the summer of 1996 with Magomed Aliev except the borders of Ukraine and promised 2 million U.S. dollars for the murder of Jewgen Scherban. In addition, Magomed Aliev has for the murder of Jewgen Scherban the Pawlo Lazarenko, as a high-ranking official *Persönlichkeit*, asked protection in commercial activities and assistance in the privatization of the mineral water factory in the city Zaritschansk.

The order of Pavlo Lazarenko murder of Jewgen Scherban ausführend have Jewgen Kushnir, Anatoly Rjabin and Magomed Aliev at the beginning of October 1996 to participate in the planning and preparation of this crime, the direct executors of the murder - *Staatsbürger* the Russian Federation Vadim Bolotskich, Gennady Zangelidi, the inhabitants of the Lugansk region Valery Puschnjakow and inhabitants of the city of Donetsk Mykola Lobkow, Vyacheslav Volkov, Sergius Denisov, Andrij Akulov, Mihajlo Brjuchin, Volodymyr Mikhailov, Grigory Titov, Igor Filipenko and Vyacheslav Polezhaj used. By this it was decided Jewgen Scherban in the city of Donetsk Airport to kill on one of his journeys from the territory of the city of Donetsk. To commit this crime, the band members have 2 sets of by employees of Civil Aviation, a set of service suit the employee of the militia, radio equipment of foreign manufacture, firearms, two machine guns "Agram -2000", two guns "TT", an assault rifle "AKM", "F-1" grenades and bought in advance a car "VAZ-21099" state flag "M 15-41 DZ" stolen.

On the 3rd of November 1996, when Vadim Bolotskich and Gennady Zangelidi of Anatoly Rjabin have received a message from the city of Moscow, available via the departure of Jewgen Scherban by plane "Yak-40" and the flight number 6418, they have, according to the developed plan dressed in employees of Civil Aviation, to the territory of the airport of the city of Donetsk, which was guarded, penetrated. Valery Puschnjakow is wheeled in on the stolen car VAZ 21099 in advance, in which were the weapons in the service uniform of a captain of the militia in the territory of the airfield. The band

member Wjatschslaw Polezhaj watched the arrival of the aircraft from the first floor of the airport.

Upon arrival at 12 PM 15 minutes in the city of Donetsk Airport from the city / loskau of the plane "Yak-40" have Jewgen Scherban, his wife Nadiya Nikitina and a member of the flight crew - flight engineer Shein WW leave the aircraft after Vadim Bolotskich approached to Jewgen Scherban and by two hits from the pistol "TT" killed him.

At the same time, Gennady Zangelidi, armed with the machine gun "Agram-2000" started to shoot on all that were located next to Jewgen Scherban, and filled the latter with additional gunshot wounds and killed on the spot the aircraft technician of the Donetsk airline, Anatoly Gaptshitsch, thereby violating the wife of Jewgen Scherban -. Nadiya Nikitina, who died on the way to hospital, the flight engineer of Kirowogradij aircraft division Valery Shein and the inspector of the customs office Oleksandr Radchenko and injured happened to be the Vadim Bolotskich. Then Gennady Zangelidi and Vadim Bolotskich disappeared on the same car VAZ -21 099, behind the wheel of what Valery Puschnjakow vanishing from the crime scene. Later died on 07.11.1996 the Flight Engineer Valery Shein in the hospital because of the consequences of the serious physical injuries that were incompatible with the preservation of life.

After the murder of Jewgen Scherban has been committed under the direction of Pavlo Lazarenko, his consultant Petro Kirichenko paid, from the offshore bank account of the company" Orphin SA "(registered in the Bahama Islands) in the bank" European Federal Credit Bank LTD "(Antigua and Barbuda) to the personal account No. 120512 in the same Antigua Bank, owned by the middle-man murder Oleksandr Miltschenko the sum of 1 million 479 thousand dollars, and on May 20, 1997, another 500 thousand dollars and on the September 10, 1997, a final wire of 979 thousand dollars.

In addition, Petro Kirichenko has paid on 26 February 1998, under the direction of Pawlo Lazarenko, the additional sum of 850 thousand dollars on the personal account No. 124154 of the girlfriend of Oleksandr Miltschenko, Natalia Snitko, in the bank "European Federal Credit Bank LTD" (Antigua and Barbuda) from the same offshore company "Orphin SA" in the same Antigua bank account.

Pavlo Lazarenko failed to meet the other issues in the benefit of Kushnir, Rjabin and Aliyev, for protection and favor that was including the use of his official position as the Prime Minister of Ukraine, because he was fired in July 1997 from the duties of Prime Minister of Ukraine.

In the criminal case No. 64-4453, following the accusation targeted at the executor of the crime Vadim Bolotskich, the Court of Appeal of the Lugansk region has emitted a judgment on the 04.06.2003, according to which Vadim Bolotskich is guilty of committing the murder of Scherban Je.O. was



recognized under these circumstances and was sentenced to life imprisonment.

A judgment dated 12.06.2003 from the Court of Appeals of the Donetsk area, another member of the mentioned criminal group Sergius Denisov and other persons were sentenced to 10 years in prison for infliction of other very serious crimes because of their participation in the commission of murder of Scherban Je.O.

The criminal cases against the leaders the gang Jewgen Kushnir, Anatoly Rjabin, Magomed Aliyev as well as against the other members of this criminal group Gennady Zangelidi, Valery Puschnjakow, Vyacheslav Volkov, Andrei Akulov, Volodymyr Mikhailov, Grigory Titov, Igor Filipenko were then closed in consequence of their death.

Other members of this gang - Mykola Lobkow, Mihajlo Brjuchin, Vyacheslav Polezhaj are currently searched.

The criminal case No. 64-4453 discarded into the Criminal Case No 49 3439 against the former Prime Minister of Ukraine Pavlo Lazarenko, as well as against the gang leader went into deep investigations in order to prove the involvement of the former PM of Ukraine in the murder, and this investigation led to the finding of other clients, organizers, promoters, and motifs of the commission of the offense committed.

In addition, investigative actions aimed to detect the very origin of the sources of funds, which was used to reward the murder of Scherban Je.O. to the agent in the organization Miltschenko OF and his wife - Snitko N.O. were conducted, and of the establishment of all physical or legal persons who had participated in the "carrying out of such transfers were discovered.

Thus, by mentioned above court judgments was found and proved that the payment for the pending orders to the murder of Scherban Je.O. was completed through bank accounts, administrators of those was Kirichenko PM, which is confirmed by bank documents, which were obtained in the framework of international legal assistance to the request of the Prosecutor General of Ukraine from Antigua and Barbuda. And by introducing the following:

- Documents of the Antigua bank "European Federal Credit Bank LTD" shows the transfer of 500 thousand U.S. dollars on 20 May 1997 and of 979 000 U.S. dollars on September 10th 1997 by Account No. 151 897 the Bahamian company "Orphin SA" in this bank to the account No. 120512 of Miltschenko O.F. in the same bank, as well as available via the transfer of 700 thousand dollars and 150 thousand U.S. dollars on 26 February 1998 from the account of the company "Orphin SA" on the personal account No. 124154 of the wife of Miltschenko - Snitko NO in the same bank.
- According to documents of the Bank, the account No 151 897 of the company "Orphin SA" was opened on 6 May 1997 by Petro Kirichenko

as General Manager The account No. 120512 was opened by Snitko Natalija on February 24, 1998 and the account No. 124154 was opened by Oleksandr Miltschenko on May 20, 1997.

- In addition, the investigation has found that under the direction of Pavlo Lazarenko, his assistant Petro Kirichenko, on 26 September 1997, moved 150 000 U.S. dollars from the account of the company "Orphin SA" No. 024/10/61310/00 in the Polish bank named "American Bank in Poland "(Warsaw) to the personal account No. 70-50569441 in the Austrian bank" Raiffeisen Bank Austria AG "(city of Vienna) of one of the member of the above mentioned gang - Yevgeny Kushnir.
- These movements for receipt and transfer through various companies of funds to accounts of the company "Orphin SA" at the time, which further movement and use show the purposes as economic reason.

1. In respect to the accounts and wire transfers of funds to the English company "RONLY HOLDINGS LTD"

In the course of the investigation in the criminal case No. 49-3439 was also found that on the account of "Orphin SA" No. 0024/10/61310/00 in the bank "American Bank in Poland" (Warsaw), from the 11 January 1995 to the 21 August 1997, in addition to other payments, the sum of 44'204'939.94 U.S. dollars was received from the English company "RONLY HOLDINGS LTD" (the statements of 1996-1997 shows that company registered at the address 7 Spring Savills park Spring Road Edgware, Middlesex HA8 7EB registered). Here in detail:

Datum	Betrag in US-Dollar	Zahler	Empfänger
11.01.1995	1 281 507,50	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
22.09.1995	1 059 790,50	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
13.10.1995	1 757 965,50	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
18.10.1995	1 638 195,00	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
20.10.1995	1 055 972,00	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
27.10.1995	350 000,00	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
06.11.1995	125 215,12	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
08.11.1995	542 694,18	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
05.12.1995	1 389 206,00	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
12.12.1995	1 780 000,00	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
19.12.1995	919 100,00	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
02.01.1996	35 273,72	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
02.01.1996	910 000,00	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
09.02.1996	995 995,00	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
19.02.1996	600 000,00	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
22.02.1996	587 405,00	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
01.03.1996	677 450,00	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
04.04.1996	356 700,60	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
12.04.1996	1 168 268,40	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
25.04.1996	1 000 269,00	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
13.05.1996	743 166,06	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
05.06.1996	600 000,00	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
12.06.1996	1 112 191,50	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
05.07.1996	669 545,35	RONLY HOLDINGS LTD	ORPHIN, Amerbank, Stadt Warschau
04.10.1996	874 000,00	RONLY HOLDINGS?	ORPHIN, Amerbank, Stadt Warschau
14.10.1996	1 084 677,70	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
29.10.1996	263 302,00	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
14.11.1996	1 015 325,00	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
19.11.1996	33 982,50	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
03.12.1996	1 187 547,50	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
19.12.1996	1 274 649,20	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
08.01.1997	1 279 623,00	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
20.01.1997	103 539,13	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
30.01.1997	701 939,83	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
03.02.1997	491 897,82	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
17.02.1997	710 398,08	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
25.02.1997	500 000,00	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
26.02.1997	72 200,94	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
05.03.1997	500 000,00	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
06.03.1997	1 000 000,00	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
17.03.1997	983 725,00	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
20.03.1997	1 747 931,94	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
03.04.1997	44 036,00	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau

16.04.1997	2 265 023,37	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
18.06.1997	885 400,00	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
19.06.1997	902 961,81	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
19.06.1997	8 175,03	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
27.06.1997	236 888,77	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
30.06.1997	1 238 518,55	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
10.07.1997	152 155,99	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
11.07.1997	354 920,13	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
17.07.1997	612 155,00	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
29.07.1997	53 271,22	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
04.08.1997	1 227 867,56	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau
21.08.1997	1 042 416,50	RONLY HOLDINGS	ORPHIN, Amerbank, Stadt Warschau

On the account of the company "Orphin SA" No. 0024/1061310/00 in the bank "American Bank in Poland" (Warsaw) to account No. 151 897 of the company "Orphin SA" in the bank "European Federal Credit Bank LTD" (on the account that was carried out from which the payment for the services of an intermediary in the context of the order of the murder through Miltschenko O.F.) been retrieved 12'651'850.00 U.S. dollars. Here in detail:

Datum	Betrag in US-Dollar	Zahler	Empfänger
15.05.1997	1 099 970,00	ORPHIN, Amerbank, Stadt Warschau	«ORPHIN S.A.» in der Bank "European Federal Credit Bank LTD"
25.06.1997	1 399 970,00	ORPHIN, Amerbank, Stadt Warschau	«ORPHIN S.A.» in der Bank "European Federal Credit Bank LTD"
08.07.1997	4 499 970,00	ORPHIN, Amerbank, Stadt Warschau	«ORPHIN S.A.» in der Bank "European Federal Credit Bank LTD"
11.07.1997	3 049 970,00	ORPHIN, Amerbank, Stadt Warschau	«ORPHIN S.A.» in der Bank "European Federal Credit Bank LTD"
14.07.1997	2 601 970,00	ORPHIN, Amerbank, Stadt Warschau	«ORPHIN S.A.» in der Bank "European Federal Credit Bank LTD"

One of the member of the criminal group acting as a witness Kuljow SW has also stated his acquaintance Puschnjakow W. He told the court that for the murder of Scherban Jewgen O. was valued to 1 million U.S. dollars. But it was uncertain which companies participated in this scheme.

The witness Zajzew S.W. explained that he was, from the beginning of the 1990's, founder of the Ukrainian company TOV "Agropostatschzbut" along with Petro Kirichenko and that from the latter it made available via payments from the company TOV «Agropostatschzbut» and the ZAT "Laki", which Kirichenko P.M. favored Miltschenko O.F. actuated was known.

The witness declared on 25-27.April 2001 that Kirichenko PM explained him that in 1996-1997, he along with Miltschenko O.F. after meeting the latter with Lazarenko P. L. invested about 1 million U.S. dollars in TOV "Agropostatschzbut». TOV «Agropostatschzbut» has then signed contracts with the company, "Orphin SA», Bahamas International Trust Co., and Nassau for the supply of wheat to the 5th grade crop in 1995 under the following conditions:



- No PL/02711343/95-0301 from 5/5/96 - Volume 10 thousand tons at a price of 130 U.S. dollars for a ton under the DAF conditions, Polish Ukrainian border Dorohusk / Jagodin. According to the system from 5.5.96 to contract the delivery recipient "Agroimpex" Ltd. (Poland), the transport and customs clearance of cargo leads the company "Ex in the Jug 'by; (for information: currency rate of the National Bank of Ukraine on the state of 05/05/96 - \$ 1183000 Karbowantsi).
- No PL/0027113431/95-0301 from 4/7/96 - Volume 5 thousand tons at a price of 130 U.S. dollars for a ton under the DAF conditions, Polish Ukrainian border Dorohusk / Jagodin. Delivery recipient - "Agroimpex" Ltd. (Poland), transportation and customs clearance of cargo leads the company "Ex in the Jug 'by, (for information: currency rate of the National Bank of Ukraine on the state from 7/4/96 - 1 U.S. dollar = 179 000 Karbowantsi).
- The contracts of the TOV «Agropostatschzbut" with the TOV "EKS IN JUG" available via the provision of services with respect to the transport of freight No. 50 of 19.04.96 as well as No. 51 by 22/04/96. Among the services included, among other things, transportation, customs clearance, guarding the freight, the order and shipping of wagons, handling of railway bills of lading and other services with respect to the beginning of operations at the station of the sender.

By the analysis, it was found that the TOV «Agropostatschzbut" sold in 1996 in favor of "Orphin SA" (Bahamas) 14 397.96 tons of wheat grain the 5th class for the price of 130 U.S. dollars for a ton from the delivery recipient AGROIMPEX (Poland). The total value of the exported goods - 1871 734.8 U.S. dollars, were paid and received to an amount of 1'863'245.0 U.S. dollars from the account of the "American Bank in Poland» Warsaw (Poland).

According to the excerpt available via the movement of money in the account of the company «Orphin SA» No 024/10/61310/00 in the bank, "American Bank in Poland" (Warsaw) and according to the information from the "Privat Bank" were the company TOV "Agropostatschzbut" has an account, the sum of 1'863'420.00 U.S. dollars was wired from the account in Privat Bank to the account of Orphin SA in American Bank in Poland.

25.06.96	453 960,00
01.07.96	207 720,00
10.07.96	310 000,00
31.07.96	107 000,00
09.08.96	468 250,00
05.09.96	316 490,00
	1 863 420,00

The account "Orphin SA" No 024/10/61310/00 in the bank, "American Bank in Poland" (Warsaw) also received the sum of 2'863'515.30 USD as means for the AGROIMPEX (Poland) contracts.

24.06.96	247 654.70	«AGROIMPEX SR. Z.O.O» Zahlung entsprechend L/C EDC 511
24.06.96	328 450.25	«AGROIMPEX SR. Z.O.O» Zahlung entsprechend L/C EDC 511
28.06.96	263 605.25	«AGROIMPEX SR. Z.O.O» Zahlung entsprechend L/C EDC 511
02.07.96	92 153.75	«AGROIMPEX SR. Z.O.O» Zahlung entsprechend L/C EDC 511
05.07.96	233 772.00	«AGROIMPEX» (Getreide)
09.07.96	159 803.75	«AGROIMPEX» (Getreide)
11.07.96	79 662.00	«AGROIMPEX» (Getreide)
25.07.96	56 067.00	«AGROIMPEX» (Getreide)
30.07.96	23 837.55	«AGROIMPEX» (Getreide)
02.08.96	238 938.15	«AGROIMPEX» (Getreide)

06.08.96	228 430.95	«AGROIMPEX» (Getreide)
21.08.96	228 310.50	«AGROIMPEX» (Getreide)
04.09.96	92 457.75	«AGROIMPEX» (Getreide)
26.09.96	83 981.30	«AGROIMPEX» (Getreide)
13.12.96	118 020.80	«AGROIMPEX» (Getreide)
16.12.96	177 148.80	«AGROIMPEX» (Getreide)
23.12.96	108 524.80	«AGROIMPEX» (Getreide)
08.01.97	90 000.00	«AGROIMPEX» (Getreide)
23.01.97	12 696.00	«AGROIMPEX» (Getreide)
	2 863 515.30	

"Orphin SA" has also carried out other transfers in favor of the TOV «Agropostatschzbut» (private bank) to an amount of 970 000.00 U.S. dollars:

25.11.96	60 000.00
19.12.96	700 000.00
19.03.97	210 000.00
	970 000.00

Also, a receipt of funds from the TOV «Agropostatschzbut» (private bank) to the account of "Orphin SA» No 024/10/61310/00 in the bank, "American Bank in Poland" (Warsaw) to a value of 250'321.00 U.S. dollars was found:

09.04.96	25 329.00
21.06.96	41 000.00
26.07.96	13 992.00
27.01.97	20 000.00
10.03.98	150 000.00
	250 321.00

TOV " Agropostatschzbut " has a contract No. 95729-005-4 undated with the non-resident " Handa International Group LTD " (Antigua) for sale of 10 000 tons of sunflower seeds to 225 U.S. dollars for a ton under DAF conditions Romanian - Ukrainian border, completed. Terms of payment: advance payment. According to the KB Privatbank's excerpts, is received on 05.11.97 , a prepayment to an amount of 500'000 U.S. dollars to the account of TOV « Agropostatschzbut " . Payer is New York K / S. Purpose of payment: by European Federal Credit Bank Ltd., for the company Agropostatschzbut with reference to the prior payment under the contract No. 95729-005-4 Handa Int.



According to the modified documents about export of sunflower seeds, the given contract and respective fulfillment was not carried out. An additional agreement _The Contract No. 95729-005-4 changes available via the payment back of the part of the / advance in the amount of 213'000 U.S. dollars were registered. Agents have been informed on the 04.12.97.

TOV «Agropostatschbut» has entered into an agreement dated 19.12.97 No. SDS 93/97 with the non-resident "Hansa International Group LTD» (Antigua) for the sale of sunflower seeds under the DAF-Delivery Mykolaiv. To fulfill the given contract, 1998 sunflower seeds were exported to Morocco and Turkey for a total value of 285'200 U.S. dollars to a total number of 1.24 million kg by the Ukrainian company in March and May. The expedition company hired by the buyer - RONLY HOLDINGS LTD made available all documents from 31.03.98 via the actual volumes of transported goods.

According to the inquiries conducted by the Prosecutor General of Ukraine on the economic crimes allegedly committed by Pavlo Lazarenko (details of the investigation on these crimes were formerly listed by the Prosecutor General of Ukraine in the previous request) it comes out that Pavlo Lazarenko, acting as Prime Minister of Ukraine already in 1996, implemented a more effective scheme to steal State assets. A statement of the Ministry of Agriculture and Food of Ukraine shows that, to the leading positions in the State headquarter for Bread Products of Ukraine, have been appointed by Lazarenko the persons Michaniw A.A. and Pristomk S.O. These persons in charge of the State companies of Ukraine for Agricultural Commodities did concluded contacts with a non-existent company called "Anmich-Rossyia" for which they controlled entirely the output and conclusion of the contract No.7 concluded with the said non-existent company.

After receiving instructions from Lazarenko P. L., the state enterprises of Ukraine committed in accordance with the agreement concluded with the non-existent company "Anmich-Rossyia", contract on 55'181.4 tons of food rye, 14'836.78 tons of barley, 22'646.6 tons of sunflower seeds under obviously controlled prices in 1996 to a total of 11'850'695.6 U.S. dollars to be loaded for export.

These agricultural commodities were never exported from Ukraine according to the contracts with the Ministers and State companies but in fact, through Michaniw AA and Pristomk S.O. the companies "DANTON TRADING LTD" (Ireland), "COMAGRO LIMITED» (Ireland), "RONLY HOLDINGS LTD" (England), "INFANT" (Estonia), sold the commodities to the Russian companies' Roshleboprodukt "and" Mosobhleboprodukt "for a sum of 17'167'386.94 U.S. dollar, which is conform to the real market price of these commodities at the time, in fact much higher than the price declared and activated in the contract with the State enterprises. Through this illegal scheme, well prepared in advance, Ukraine suffered from largely unprofitable contract No. 7 of 22.04.1996 with the participation of Lazarenko Pl.

According to the above mentioned information, the identification of the source of the money used to pay the agent of the commissioned murder Miltschenko O.F. can be traced back to the use of these illegal settlements through the company RONLY HOLDINGS LTD.

According to the webpage "CYLEX Business Directory United Kingdom" <http://www.cylexuk.co.uk>, the company "RONLY HOLDINGS LTS" is registered at the address: 2nd Floor, 206 Marylebone Road, NW1 6JQ LONDON GEO: 51.521519, -0.161466, Phone: +44 (0) N0 7258 2100 Fax: +44 (0) 20 7724 0408.

During the years 1996-1998, the company "RONLY HOLDINGS LTD» had an account No 512.316/00.07 in the bank "Banque de Commerce et de Placements SA» (Geneva - Switzerland).

In the course of the investigation in the criminal case No. 49-800 against Pavlo Lazarenko, Tymoshenko and others and after the acceptance of a mutual legal assistance request from the Prosecutor General of Ukraine dated 21.09.2001 to the Federal Office of Justice of the Swiss Confederation of 22.10.2003, the latter provided an excerpt from the company's account « RONLY HOLDINGS LTD » No 512.316/00.07 in the bank "Banque de Commerce et de Placements SA» (Geneva) for the period from 15.04.1997 to 30.12.1997 and from 06.02.1998 to 31.12.1998.

According to the mentioned information above, the General prosecutor of Ukraine sent a request for judicial assistance stating the following:

1. To obtain for the period from 01.01.1996 to 31.12.1996 from the Bank "Banque de Commerce et de Placements SA» (Geneva) all documents available via the movement of money in the account No. 512.316/00.07 the company "Ronly Holdings Limited".
2. From the bank "Banque de Commerce et de Placements SA» (Geneva) to obtain all the documents available via the movement of money in the account No. 512.316/00.07 the company "Ronly Holdings Limited" with respect to the sources and the origin of the funds that have been received to this account, especially on 16.04.1997 in a total of 2.27 million U.S. dollars and on 21.08.1997 in a total of 1.04 million U.S. dollars to the accounts of the offshore company «Orphin SA" (registered in the Bahama islands).
3. According to the available information, as a result of the write-off of the above mentioned agents, a sum of 1.04 million U.S. dollars on 21 08.1997 has, in the account No. 512.316/00.07 the company "Ronly Holdings Limited", opened in the bank "Banque de Commerce et de Placements SA "(Geneva, Switzerland), formed a negative balance in a lump sum of 1.26 million U.S. dollars, which in turn, on the 04.09.1997 was paid at the expense of a company through a bank credit institution to a total of 1.46 million U.S. dollars (by two transactions: to 0.61 million U.S. dollars and 0.85 million U.S. dollars).



In view of the above mentioned statement, we ask copies of credit agreements No. 145 944 and No. 145 945 to be provided and should be specified at the expense of which business partner (name, residence, bank accounts), included the details of the funds used by the banking institution where the customer has been serving the loan repayment.

4. Had the company "RONLY HOLDINGS LIMITED" accounts in the following banking institutes:
 - a. BANQUE NATIONALE DE PARIS SUISSE SA, Stadt Basel
 - b. .Banque internationale de Commerce., Genf 2, Schweiz
 - c. United overseas bank, 11 QUAI DES BERGUES, PO BOX 900, 1211 Genf 1, Schweiz, Acc: # 000 630 630246-400
 - d. Credit Suisse, New-York, Acc: # 0251-207557-12 USD
 - e. Credit Suisse, Schweiz, Genf, Rue de la Gare 4, 1528, Ass: # 0251-207557-12 USD.

2. In respect to the payments by the company "GHP Corporation" the Company "Orphin SA».

Transfers to the personal account of Miltschenko O.F. No. 120512 in the bank "Eurofed Bank Limited" on 10.09.1997 from the account of the company «Orphin SA» was then carried out in the Bank "Eurofed Bank Limited", as the balance on this account a decrease of 8'626'460.45 U.S. dollars amounted to. After the transfer, the balance sheet of the company «Orphin SA» 9605 was 460.45 U.S. dollars.

The liability of the company «Orphin SA», according to the account guarantee to the bank was on 11.09.1997, with the payment of a sum of 10'000'000.0 U.S. dollars from the company "GHP Corporation", which was controlled by Kirichenko P., from the account No. 5452 in the bank, "SCS Alliance" (Geneva, Switzerland), administrator of which was also the latter Kiritchenko P..

At the above mentioned transfer of 850'000 U.S. dollars have also been detected to the account of Snitko N O.. The largest payment the company "Orphin SA" in the bank "Eurofed Bank Limited" was the payment on the 20.01.1998 of a total of 3'000'000.0 U.S. dollars by the company "GHP Corporation". After that period from 21 January to 26 to February 1998, various disbursements emanated from the account.

After payments to Snitko N., which were carried out at the expense of enlarging the liability guarantee to the bank of the company «Orphin SA», this liability was settled by a payment on the 26.02.1997 for a total of 1'000'000,0 from the company "GHP Corporation".

Also an unconfirmed documental information was obtained showing that in the bank "Banque de Commerce et de Placements SA" (Geneva), the company "GHP Corporation" had an account with the number 21383.

In view of the above mentioned information, the General Prosecutor of Ukraine asked for legal assistance in the following matters:

1. From the bank, "SCS Alliance" (Geneva, Switzerland) all documents available via movements of money in the account No. 5452 of the company "GHP Corporation" (Panama), specifically in respect to the sources of the origin of funds, which in later times to account number 151 897 of the company «Orphin SA '(on 16.12.1997 - 4 million U.S. dollars and on 26.02.1998 - 1 million U.S. dollars) were transferred.
2. Was an account No. 21383 in the bank "Banque de Commerce et de Placements SA» (Geneva) opened by the company "GHP Corporation" (Panama) in 1996-1998?
3. If yes, then provide all available documents from the bank "Banque de Commerce et de Placements SA» (Geneva) regarding the movements of money in the account No. 21383 of the company "GHP Corporation" (Panama) during the period from 01.01.1996 to 01.06.1998.

This criminal case has no political purpose and has no political character. All information obtained by the Prosecutor General of Ukraine will be used exclusively in the investigation of the criminal case and its judicial treatment.

We ask you to transmit the answer about the eventual acceptance for execution of or further questions by fax to the phone / fax +38044200-70-35 and let the full response by post to the address übersenden the Prosecutor General of Ukraine.

We thank you in advance for a positive settlement of this request and take this opportunity to transmit to the competent authorities of the Swiss Confederation our consideration.

**Hauptuntersuchungsführer
in besonders wichtigen Sachen
der Generalstaatsanwaltschaft der Ukraine**

(UNTERSCHRIFT)
(AMTLICHES SIEGEL)

S.W. Gorbatjuk

bersetzer der Generalstaatsanwaltschaft der Ukraine



2- Corporate Raiding in the media recent past: the TVi saga case

Probably the most notorious case of media raiding was the recent case of TVi, an unprofitable station, whose news coverage, according to *Kyiv Post* “stands out for digging deep and hitting hard in times when much of the domestic news coverage has been either dumbed down or spun in favor of Yanukovich.” Although small in scale, this case is interesting because of the insights it offers to the techniques that raiders use.

The station’s investigative reporters made a concerted effort to “follow the money” through layers of ownership changes and shell companies, and found numerous mysteries, discrepancies, and illegal actions, couched in legal formalities and “notarized” documents. (See *box*) But despite their efforts, they were unable to conclusively identify the individual or groups behind the raid.

The TVi Saga

In April 2013, TVi was the last remaining television channel in the hands of the opposition, and had become famous for its investigations of corruption. It was not a financially profitable enterprise, nor did it have a large listener base.

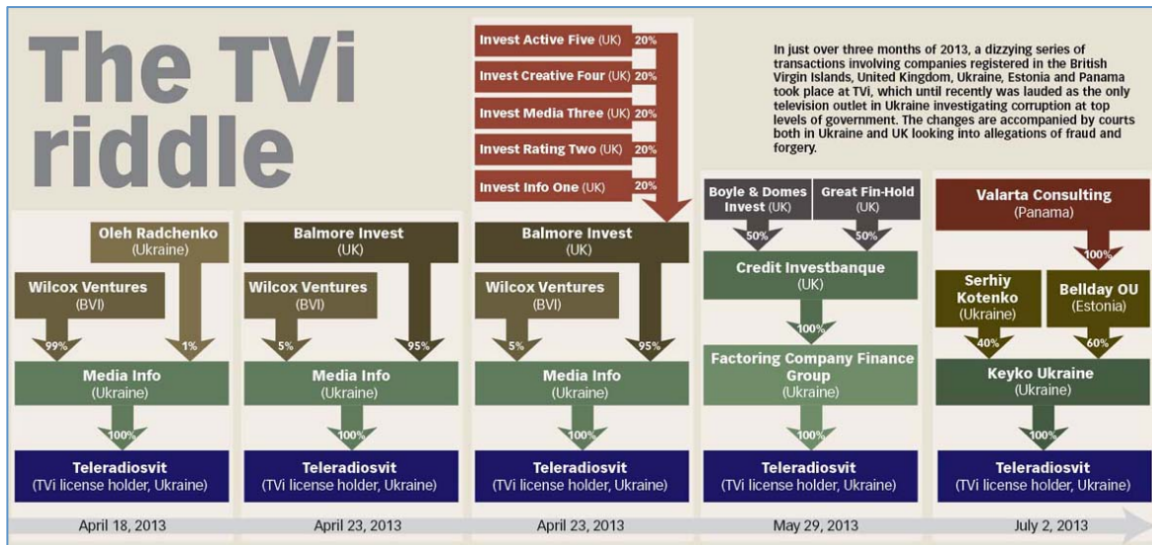
On April 23 a new group of owners banned the former management from entering the building and announced that they had taken control of the station from Russian oligarch Konstantin Kagalovsky, who had co-founded the station along with other Russian oligarchs in 2008. A U.S. investor of Ukrainian origin, Alexandr Altman, was presented as the new owner.

After that, things began to unravel quickly, as Kagalovsky claimed he had not sold the company and a flurry of claims and counter-claims, suits and counter-suits ensued. Altman claimed that he too had been swindled. Courts in London and Ukraine froze the assets of the various claimants, but over a period of about 3 months, 17 different companies, registered in 5 countries (Ukraine, UK, Estonia, Panama and BVI) claimed to have bought and sold claims to the company. (*see graphic*)

While much about the transactions remains a mystery—including the real identity of the individual or individuals behind it, OCCRP was able to document a number of elements, individual and practices that are frequently found in Ukrainian corporate raiding:

- (1) Creation of several levels of ownership, often through multiple shell companies, to hide the real owners. In several cases the nominee directors either denied knowledge of the companies and/or were listed as running hundreds of companies.
- (2) Use of “registration agents” linked to organized crime, and registration of companies in localities, such as Panama and British Virgin Islands where regulations are notoriously lax.
- (3) Use of a law firm that is linked to other questionable business deals in Ukraine, including those by “Family” associates.
- (4) Use of a “factoring” company that buys company debts at a discount and then collects the debts, often through confiscation of the company’s assets.
- (5) Use of complicated legal maneuvers such as cross-suits to “establish” legal ownership.
- (6) Frequent changes of ownership structure, even after a court decision has ostensibly frozen ownership.

(see OCCRP, “Ukraine’s TVi Channel Keeps On Changing Hands” by Denys Bigus, Sept 20 2013)
www.reportingproject.net/occrp/index.php/en/ccwatch/cc-watch-indenth/2150-ukraines-tvi-



3- Corporate Raiding in the services recent past: the SWISSPORT case

Source: www.swissport.com

SWISSPORT APPEALS TO THE HIGHEST ECONOMIC COURT OF UKRAINE FOLLOWING THE RULING OF THE COURT OF APPEAL AGAINST SWISSPORT

03/10/14

Swissport International (Swissport), the world's leading provider of ground and cargo handling services to the aviation industry, continues seeking justice in the Ukraine. Last year on 27th March 2013 Swissport lost its majority share of 70.6% and the control over its joint venture Swissport Ukraine LLC (now renamed to Interavia LLC). Swissport Ukraine LLC was victim of a raider attack followed by a flawed legal process led by Ukraine International Airlines (UIA), rumored to be ultimately owned by oligarch Igor Kolomoisky, governor of the Dnepropetrovsk district. In October 2013, the Highest Economic Court in the Ukraine ruled in favor of Swissport, cancelled all prior decisions and referred the case back to the first instance court.

In May this year, Swissport achieved another significant success in front of the Economic Court of Kyiv, the first instance court, which ruled in favor of Swissport. However, following UIA's appeal the Court of Appeal last week surprisingly ruled against Swissport, despite the fact that Swissport meanwhile has obtained in an ancillary proceeding a final and binding court ruling in its favor, pursuant to which Swissport would need to be re-entered as shareholder into the Ukrainian state register and the company would have to be renamed to Swissport Ukraine again.

The fact that the Court of Appeal now ruled against Swissport in the main case is a surprise, since the verdict is not in line with Ukrainian law and contradicting Ukraine's attempt to get closer to European legal standards and to improve its legal and political environment to protect foreign investments efficiently. The recent ruling in this context seems to be rather contradictory. However, Swissport is still confident that the current political developments are going in the right direction and will help to establish due process and primacy of the law. The Swiss and French embassies continue to support Swissport's efforts to regain its business in the Ukraine, and the EU Commission is aware of the proceedings as well.

Overview on the proceedings in the main court case in the Ukraine:

In 2006 Swissport entered the Ukrainian market by acquiring shares in a joint venture named Interavia LLC. In the following years, Swissport increased its share in the joint venture from previously 51% to finally 70.6% with the remaining 29.4% held by UIA. Until 2011, when UIA's ownership was sold to

private investors with Ihor Kolomoyski and Aron Mayberg at the forefront, Swissport had a very good partnership with UIA.

As Swissport Ukraine was successfully growing double-digit every year, investments into the company became necessary to support further growth. UIA struggles from the beginning with the ability to meet their pro rata share obligations. Swissport was ready to finance the growth and was expressing its will to further invest in the company's future and to ensure continuous growth by financing the company even beyond obligations. Based on mere discussion during a Participants' Meeting about a potential future capital increase, UIA alleged that Swissport had resolved on a capital increase against the votes of UIA and therefore violated UIA's minority shareholder's rights and went to court.

The capital increase has never been resolved by Swissport and UIA to date was never able to give evidence to their allegation. Nevertheless, the Economic Court of Kyiv, the first instance, ruled against Swissport. The second instance court, the Court of Appeal ruled against Swissport as well, the consequence of which was the immediate loss of Swissport's 70.6% shares in Swissport Ukraine and the control over the company. UIA became the sole owner of the company, which, at that time, had an estimated value of 25 Mio USD. Moreover, the airline owners of UIA managed to convince the court that the 70.6% share in Swissport Ukraine would only be worth 400k USD. This was one of the reasons why Swissport decided to keep on fighting for its business and went to the highest court in the Ukraine, the Highest Economic Court of Ukraine.

The court appeal hearings at the Highest Economic Court were postponed several times based on dubious reasons. In the meantime, UIA had unilaterally taken the decision to increase the share capital in Interavia with the obvious goal to dilute Swissport. By doing so UIA did the very thing, for which it sued Swissport when the company falsely alleged Swissport of a dilution attempt. The Ukrainian Government and Anti-Raider-Commission were long in coming with their promised support for foreign investors and companies that lost their business through hostile takeovers. This all happened before the political situation in the Ukraine started to change.

In the third instance, the Highest Economic Court of Ukraine on 2nd October 2013 cancelled the decisions of the first and second instance court and referred the case back to the first instance court. Shortly after, on 6th November 2013, court proceedings in the first instance court, the Economic Court of Kyiv, started again. On 29th May 2014 the first instance court decided in favor of Swissport and dismissed UIA's claim against SPI. UIA appealed against this court decision. Finally, on 25 September 2014, the second instance (Court of Appeal) ruled against SPI.

Swissport will appeal against this latest court ruling, which means that the case will again be dealt with by the third instance, the Highest Economic Court of Ukraine.

Successful hostile raider attack against Swissport International in the Ukraine

Made possible due to a flawed legal process led by Ukraine International Airlines (UIA) and its main shareholder Aron Mayberg Swissport International Ltd. today announced that with immediate effect it lost ownership and control of Swissport Ukraine completely after a binding court decision in Kiev, Ukraine. The loss of ownership is the unfortunate consequence of a successful hostile raider attack of Ukraine International Airlines (UIA) and its main shareholder.

With immediate effect Swissport International Ltd. has lost ownership and control of Swissport Ukraine completely after a binding court decision in Kiev, Ukraine. This is the unfortunate consequence of the successful hostile raider attack of Ukraine International Airlines (UIA) and its main shareholder, Mr. Aron Mayberg. This hostile raider attack was based on alleged violations of formalities without legal grounds and now resulted, after unfair judicial process, in this surprising loss of ownership. With immediate effect any responsibility for this Ukrainian legal entity (so far known as “Swissport Ukraine”) now lies solely with the new owner, Ukraine International Airlines. Due to this unscrupulous enforced change of ownership the former “Swissport Ukraine” will be no longer covered under the Swissport International Aviation Liability Insurance and all other international insurance programs controlled by Swissport International. Swissport International will take instant action to remove the brand “Swissport Ukraine” with immediate effect, as all liabilities are now with the new owner.

“We very much regret the difficulties and impact the court decision and the hostile approach of UIA has caused to us and may cause to our esteemed customers and business partners”, commented Juan-José Andrés Alvez, Executive Vice President Ground Handling Europe, Africa and Latin America.

And he proceeds: “Despite this unfortunate attack and the difficult environment we will continue to fight to get our company back, and it is Swissport International’s intention to re-enter the Ukrainian market. Should this not be possible under normal business conditions the aviation industry will have failed to support and defend open competition and ethical business practices.”

Highest Economic Court in Kiev rules in favor of Swissport

Zurich/Kiev, 3rd October 2013

Swissport International Ltd., largest provider of ground and cargo services to the aviation sector, announces that in yesterday's court ruling (02 October) the Highest Economic Court in Kiev decided to cancel all decisions taken by the first two court instances and to redirect the case to the first instance for review. The legal basis on which UIA (Ukraine International Airlines) tried to justify its new full ownership in the ground handling entity was declared null and void. The court ruling creates a new starting point from which Swissport is expecting to get its majority ownership of the former "Swissport Ukraine" (now firming as "Interavia") and the respective shares back. Swissport is open for an amicable solution and looking forward to discuss further steps with the airlines' representatives. Swissport also feels encouraged about this signal of the Ukraine, moving into the right direction and not only verbally distancing from unlawful behaviors.

In yesterday's court hearing the Highest Economic Court in the Ukraine has decided the court rulings of the Kyiv City Economic Court and Kyiv Economic Court of Appeal as null and void and redirected the case back to the first instance for reconsideration. With this ruling the basis on which UIA tried to take over full ownership of Swissport Ukraine (now Interavia) end of March has been declared invalid, and Swissport is expecting the new situation to lead to a reverse transfer of its ownership of 70.6% of the shares in former Swissport Ukraine.

Swissport is confident that the Anti-Raider-Commission initiated by the Government of the Ukraine will now start to continuously and closely monitor the review process and the reverse transaction processes as well as the reversal of the unjustified capital increase UIA undertook with the aim to dilute Swissport. The Commission just recently has started to observe and investigate on several hostile takeovers in the Ukraine - among them Swissport - and announced it will support in protecting foreign investments and unfairly treated companies in getting back their business through a fair and lawful process. Swissport is counting on this necessary support for the next procedures.

Mark Skinner, SVP Ground Handling Northern Europe & North Africa states: "We have been very concerned over the last months, but were always convinced that the law and right are on our side. The endorsement of the Highest Economic Court is an important step and encouragement not only for Swissport but for all foreign investors that are, or want to be active in the Ukraine. We are confident that the latest developments in the Ukraine, initiated by the Government and the Highest Economic Court of the Ukraine, are a good first step and now advancing into the right direction."

Swissport in a next step will invite UIA to an open roundtable discussion. Mark Skinner: "We are open to find an amicable solution with UIA, as it was our intention from the beginning, and will drive things forward. This would help the



company to concentrate on delivering high quality operations and services to the benefit of its customers."

The court case of Swissport in the Ukraine including yesterdays' court ruling is continuously backed by the Swiss and French Embassies in the Ukraine. Their continuous support in addition to the expected on-going support of the Anti-Raider-Commission is invaluable. The issue also reached the attention of the European Commission and its delegates, who will continue to follow the case closely and will appreciate the latest developments and right steps towards effective protection of foreign investment.

4- Information and analytical information on the state of combating organized crime and corruption in 2013

Priority of the prosecution is to oversee compliance with the law on the fight against organized crime and systems to ensure coordinated actions of law enforcement agencies.

In order to improve the mechanism for monitoring the crime situation in the country, including the forms of organized crime introduced a systematic analysis of the causes and conditions that affect its status (paragraphs 6, 7 Action Plan to implement the concept of public policy in the fight against Organized Crime (hereinafter - Plan).

With the adoption of the new Criminal Procedure Code of Ukraine and the introduction of the Unified Register of pre-trial investigations, the General Prosecutor carries out 24/24 crime situation in the country. To this end, appropriate departments have been set.

The results of studies are used in the planning of the work, in interagency coordination meetings, and to improve the work on combating organized crime.

The most urgent issues of the fight against organized crime were discussed during meetings of the board, coordinating meetings of heads of law enforcement agencies and State and 2 meetings held at the General Prosecutor of Ukraine. Based on their decisions were carried out a set of coordinated specific measures.

In particular, on 17.05.2013 leaders held a coordination meeting of law enforcement bodies of Ukraine on the state of combating crime and corruption in the country, which also discussed the problematic issues of combating organized crime.

Coordination was carried out in other forms. First of all visits were carried out to inspect the organization of work to fulfill the requirements of the Law of Ukraine "On the organizational and legal framework to combat organized crime," "On Combating Corruption", Ukases of the President of Ukraine and branch orders of the Prosecutor General of Ukraine on these issues in the prosecutor's offices in Crimea, Zhitomir, Poltava and Sumy regions.

In the National Academy of Prosecution of Ukraine on the basis of international experience and current needs is being carried out preparation and training of prosecutors, including those which competence includes combating organized crime and corruption (paragraph 12 of the Plan).

In addition, in the Academy for graduates (full-time and distance learning) is taught "Legal Remedies For Combating Corruption", whose purpose is to explore the characteristics of liability for corruption offenses, to study the



activities of specifically authorized entities in combating corruption. Simultaneously, in the learning matter "Problems of combating crime" is included the theme "Problems of combating organized crime." In the study of these matters, are considered the provisions of both national legislation and international instruments in the fight against organized crime and corruption and teachers present to students the work experience of the relevant Special Forces in Ukraine and abroad.

In order to learn from the experience of fighting organized crime in other countries and the General Prosecutor's Offices and Ukraine took part in several international events (paragraph 17 of the Plan), including:

- The meeting of the working group on the confiscation of property derived from unlawful activity carried out under the auspices of the European Union (31.07.2013, Odessa, Ukraine);
- The meeting of the working group on technical assistance established pursuant to the decision of the Conference of Parties of the UN Convention against Transnational Organized Crime, carried out with the support of the Deputy Permanent Representative of Ukraine to the International Organizations (28-30 October 2013, Vienna, Austria);
- International scientific and practical conference "Improving the cooperation of the competent authorities and special services of the CIS member states in combating modern threats and challenges to security" (28-30 Nov, 2013 year Minsk, Republic of Belarus).

Pursuant to paragraph 22 of the Plan in the General Prosecutor's Office of Ukraine on 17.10.2013 there was a briefing of Chief of supervision over the observance of the laws of special forces and other authorities dedicated to combating organized crime and corruption, during which the media were informed about the state of the fight against corruption and organized crime in the State of Ukraine.

General Prosecutor of Ukraine organized vzaimozvirka materials on the basis of materials provided by the State monitoring of Finances (Gosfinmonitoring), especially related to the suspension of financial transactions related to the legalization (laundering) of proceeds from crime and financing of terrorism (Section 8 of the Plan) and their forwarding to the investigative units to conduct pre-trial investigations. (police exposed 8 gangs in the area, indictments forwarded to the court).

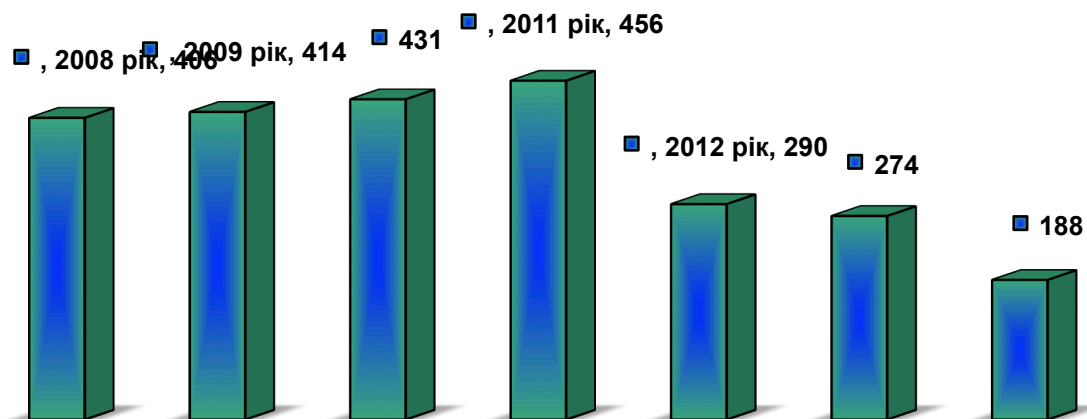
On the official website is provided disclosure of information about system of public agencies that fight against organized crime, permanent information of the society on the state of fight and the measures taken in the field of the fight against organized crime (pp 19, 20).

Analysis of combating organized crime shows that due to these organizational and practical measures there have been some positive developments in this area.

The General Prosecutor of Ukraine introduced a balanced approach in regard of the incrimination of qualified signs of the commission of a crime within organized groups and criminal organizations, preventing the occurrence of such qualifications for insignificant facts.

As a result, law enforcement authorities in the current year, destroyed 188 (274) criminal gangs, including 27 with corrupt connections.

**Динаміка викриття правоохоронними органами держави
організованих злочинних угруповань упродовж 2008-2013 років**



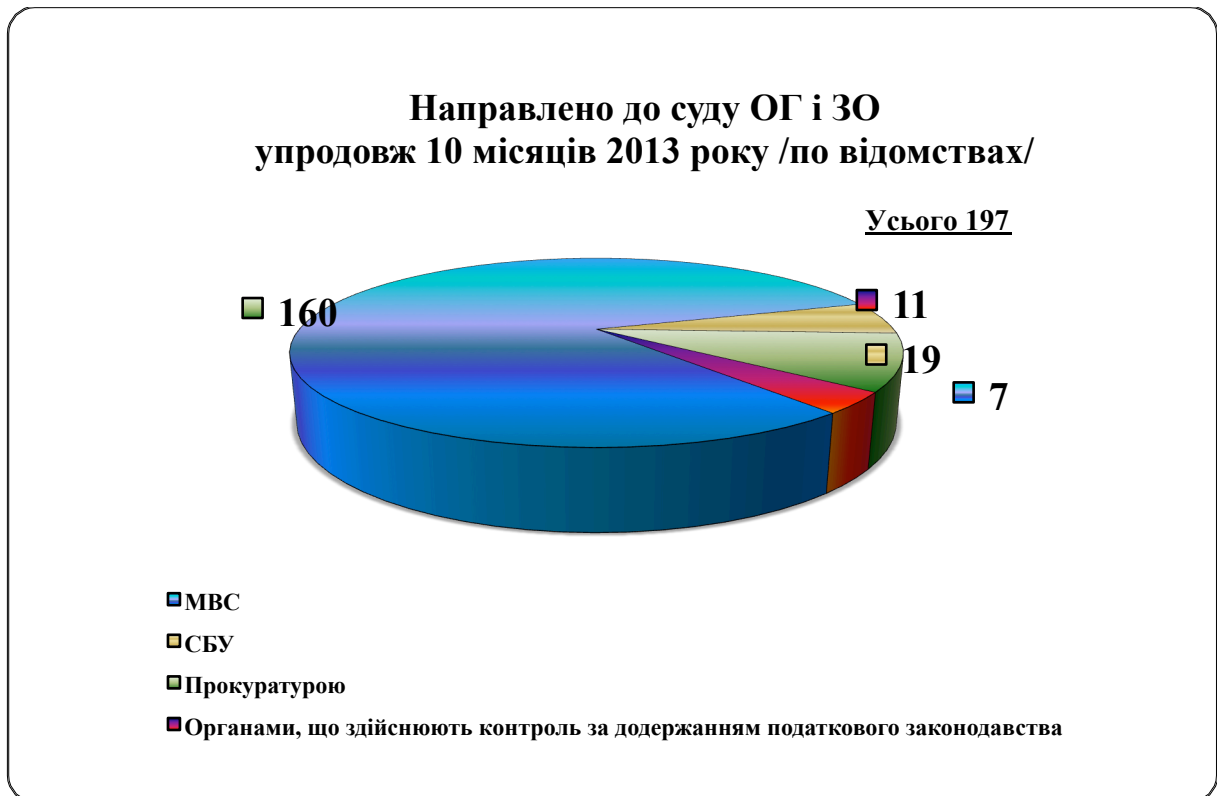
Most of the groups exposed were in *Donetsk (14), Odessa (14), Luhansk (12), Zaporizhia oblasts and Crimea (10)*.

A third of the neutralized groups (67 of 188) operated in State agencies and administration with corrupt and interregional, transnational and international ties, in the sphere of economy.

Thus, in the Poltava region by the Service of Security of Ukraine was exposed a criminal group with 4 people (organizer was the head of the Anti-drug trafficking of Internal Affairs of Ukraine in Poltava) which in 2012 produced and sold in the region drugs (cannabis, extracted and acetylated opium) in a large scale.

Overall by law enforcement departments to courts were sent 197 acts criminal indictments proceedings and charges were brought against 709 members of criminal gangs that committed 1,500 criminal offenses.

Of which Prokuratura completed investigations in 19 proceedings, investigative units MIA - 160, SBU – 11, Ministry of income and charges Ukraine - 7.



During the preliminary investigation were undertaken measures to ensure compensation and possible confiscation of the property of the accused.

In proceedings of the categories were identified 592 million USD. of property damage, hereby were withdrawn and recovered funds and assets of 111 million. In order to ensure reimbursement, property of suspects worth over 542 million USD. were seized and claims were filed against 171 million.

Thanks to the effective implementation by the prosecutors of the constitutional functions of public prosecution in the courts of the enactment of sentences 191 criminal proceedings were examined in this category. *Most cases were in Donetsk (20), Luhansk (17), Kharkiv, Poltava (14) and Odessa (15) regions.*

Was provided appropriate approach to penalize signs of organized crime, which was confirmed in 187 (98%) cases examined by courts, which is one of the main criteria for evaluating the work of special forces, investigators and prosecutors.

Implementation of the Action Plan to implement the concept of public policy in the fight against organized crime is under constant control of the Prosecutor General of Ukraine.

General Prosecutor of Ukraine



5- Ukrainian Organized Crime Groups: A Behavioral Model

Alexander N. Yarmysh The Ukrainian Academy of Law Sciences The National University of Internal Affairs, 2004

Theoretical and Empirical Basis of the Research

This research is the first comprehensive attempt to establish a behavioral model for Ukrainian organized criminal groups. It takes a sociological approach by applying theories of social organization and small group behavior, along with the concept of a “criminal triangle,” - - that is professional crime and criminals, organized crime, and prison social groups operate symbiotically and are mutually dependant on one another for success.

Our primary research hypothesis is that there are some common social rules that guide the behavior of organized criminal groups. According to Talcott Parsons’s theory of social organization, human behavior is determined equally by four elements, or subsystems which include: the organism, personality system, social system and culture (1). Thus, we propose that there are similar rules in the world of organized crime. These can be divided into three heterogeneous sets.

First, there is an ideological infrastructure that embodies the tradition and mythology of organized crime as a worldview and a way of life. Next, there are intra-group rules that are the common rules and traditions of individuals involved in organized crime. These results are from specific group dynamics, but are common to all organized groups. They include leadership, group control, structure, the determination of roles, and external and internal controls. Third, there are the standards and techniques for specific criminal behavior, the criminal “know-how” needed to carry out the commission of crimes.

Methodology

We used several methods for aggregating both quantitative and qualitative data. These included a statistical analysis of Ukrainian Ministry of Internal Affairs crime data from 1992 through 2000; analysis of data on individuals involved in criminal groups from 1994 through 2000; and, crime statistics on organized criminal groups from the quarterly records of the Kharkov UBOP (the State Department for Fighting Organized Crime) from 1997 to 2000. In addition, a case study approach was used with an organized criminal group whose members were serving their sentences in prison. We examined case documents, interviewed convicts, and interviewed UIN (United Information Network) workers at the facility where the convicts were serving their sentences.

A focus group was convened with nine UBOP investigators and administrators, and law enforcement officials from various parts of Ukraine. In all, 232 people were surveyed on the institutions, traditions and group dynamics of the criminal world and organized crime: 25 were employees of the Kharkov UBOP,

20 were UBOP investigators for various regions of Ukraine, and 180 were convicts who were serving sentences, including 84 who had been convicted of being participants in organized criminal groups. In addition, 150 criminal cases were analyzed using primary source case materials from internal affairs agencies, the Ukrainian Security Service, and the prosecutor's office.

Ideology and Institutions of the Criminal World

The ideological foundation and historical roots of organized crime in Ukraine can be expressed in two ways. First, the ideology of the criminal world, in particular the so-called “thieves’ idea” and the “thieves’ world” (2) had their origins in Russian prisons and labor colonies (work camps) where convicted Ukrainians were also imprisoned. But in addition, it is also likely that the Russian “peasant commune mentality” also influenced the development of the thieves’ world. To understand this development, it is necessary to understand Russian peasants in the context of their social status, as embodying a certain spirit and philosophy that is indicative of the lower classes in Russia.

For example, in Russian peasant villages, there was no such thing as the concept of private property. Questions of collective life were decided at village gatherings, where as the family head, each adult male had an equal voice. It is also important to emphasize the isolation of the peasant communes and their non-acceptance of official institutions and structures. The unwritten informal laws and systems that developed as part of communal life forbade the involvement of any official authorities. The peasants viewed the outside world (especially the State) as hostile, oppressive and inimical to their way of life.

Peasants had to depend upon themselves to resolve conflicts, and they came to glorify prominent robbers, insurgents and revolutionaries, with whom they identified their version of fairness and equality. Thus, collectivism, insularity, self-organization, solidarity, striving for a certain truth and uneasy feelings about the Russian communist system were the soul of the peasant commune.

By the second half of the 19th century, the thieves’ idea had given rise to “thieves’ gangs,” whose organization was naturally characterized and influenced both by the totalitarian tendencies of Russia and the traditions from the peasant commune. Since the departure from official society presented great difficulty and risks, internal secrets were strictly protected. The gang viewed its members as a family of devotees, betrayal of whom was not allowed.

At first glance, this “thieves’ idea” may seem to be a badly structured ideology, as it is a difficult concept to articulate. In the criminal world, however, it resonates quite readily. It is taken to be the idea for a thieves’ brotherhood, as a proclamation of fairness “for oneself,” and as an expression of one’s “truth.” Upon a more detailed analysis, one can indeed begin to see that the “thieves’ idea” is both consistent and systematic.

This idea embraces principles of individuality, the idea of brotherhood, and a belief in their own superiority in relation to the rest of mankind. There is no

belief in the right to private property, but there is the belief in their own right to live at the expense of others and to confiscate the property of those at the lower levels of the social hierarchy. There is also a kind of primitive religion, a creation myth, and taboos. It is clear that many of these ideological traditions remain with Ukrainian organized crime groups today.

live at the expense of others and to confiscate the property of those at the lower levels of the social hierarchy. There is also a kind of primitive religion, a creation myth, and taboos. It is clear that many of these ideological traditions remain with Ukrainian organized crime groups today.

A “thieves’ code of honor” is dictated by standards and rules of correct behavior and is made up of both prohibitions and rules of behavior that are based on law, duty and function. Some examples of the prohibitions include the following:

- not betraying others in the group by concealing money or disclosing group secrets;
- not working outside of the criminal organization;
- not participating in outside institutions or affiliations; not contacting agents of law enforcement;
- having no contact with those previously banished from the group or with members of other criminal groups;
- and, not having a legitimate wife, as the criminal should be an eternal vagabond, ready for any fate, including prison.

Some examples of the guiding rules include to selflessly support crime, and to always help “brothers” with money or blood when they need it. When and if imprisoned, one must enter the criminal family, understand and use criminal jargon, uncover and punish traitors and defectors, and recruit and train new young criminals. The member of this thieves’ world has the right to have an “unofficial” wife or mistress, to take what he wants from non-members in prison, and to enjoy the highest social status in prison. He has the obligation to support “brothers” who are serving a sentence and to care for their families, to help a brother who is on the run from the law, to not lose one’s faculties from consuming alcohol or drugs, and when necessary to assume the blame for a fellow thief or criminal.

Violations of this code can result in a broad range of punishments from a minor reprimand to the death penalty. In prison groups, various types of shame tactics are used, including banishment to a lower class of convicts. These sanctions are similar to those used by the lynch mobs of the peasant communes. In the 1990s, the thieves’ code of honor was replaced by a similar but less strict concept of “notions.” Notions currently guide the relationships among criminal groups and professional criminals, including businessmen who operate in the shadow economy. Within the notions, the spirit of the thieves’ code is preserved in that criminals occupy a special position in this society.

“Initiation” and the “Made Man”

The “made man” is a high-ranking and respected professional criminal who has formally accepted the thieves’ code. Ukrainian organized criminal groups share the idea that the made man is a highly principled criminal - -similar to the positions of honor within the Italian Mafia. Initiation of the made man occurs only after a long period of information gathering about the candidate and an oath that endures for life is taken. While initiation is thought to be a rare event in Ukraine by those surveyed, a study of one organized crime group revealed that made men play a central role in the organization of the network of criminal groups in Ukraine and in criminal activity abroad.

Made men occupy the highest rank of the criminal pyramid, and appoint polozhensty and “watchers” to play the role of the “authorities” within the criminal sphere. According to our interviews, the prison social system is divided into three categories of convicts. The upper layers consist of professional criminals or murichiki, who try to control all convicts and ensure that the “code of the prison” is followed. Then the middle and most numerous convict classes are made up of muzhiki. The muzhiki attempt to be loyal to both the administration and the murichiki. The third and lowest level of convicts basically serves the others.

The obshchak is a general and shared fund used for supporting imprisoned criminals and their families. It is the oldest traditional institution for organized crime in Ukraine, and again has its roots in Russian folkways. It is indicative of the organizational strength of a criminal group. In prison, the obshchak is a cash box of illegally acquired money, used for “grev” or bribery in the prison.

The thieves’ meeting has its historical roots in the rural assembly and demonstrates the democratic and aristocratic origins of the thieves’ movement. Originally, only the made men gathered at these meetings to discuss the ideological and economic problems of their group - -decisions emerging from these meetings were then disseminated to other group members.

Professional criminals use distinctive means, such as aliases, nicknames and tattoos, to classify and brand themselves. Our survey results indicate that the use of these signs is well known in Ukrainian society, but that they are no longer used in the world of professional crime, or at least are not an obligatory element of status but are rather of a more symbolic nature. In fact, tattooing and jargon have more recently become the prerogative not of the elite criminals, but of the lower criminal classes.

Internal Regulation and Behavior of Organized Criminal Groups

Organized criminal groups essentially act as social organizations, and therefore have certain basic features such as goals, interaction, social structure, and management. The goals of criminal organizations are set by their leaders and are tailored according to the needs and interests of the groups’ members. These goals serve both to influence the organizational



structure of the group and to regulate the behavior of the group members. Further, continuous interaction among the members serves to reinforce the structure and functions.

Organized criminal groups exist in relation to both internal and external structures. The relevant external structures include such obvious ones as law enforcement agencies, e.g., the Ministry of Internal Affairs, the Procuracy, and the Ukrainian State Security Service, as well as other external entities such as business enterprises, banks, etc. Other external structures can also include other criminal groups that have encroached upon the territory of the group. Internal structures, on the other hand, include the actual organization of the criminal group itself.

Like any other organized social group, the success of a criminal group largely depends upon the quality and style of management. Survey results indicate that organizers or leaders of groups prefer a firm, authoritarian management style, but that the rank and file members are more partial to democratic and charismatic management styles. In addition, rank and file members exhibit dissatisfaction when management favoritism is shown to certain members. Respondents also indicated that there is a high level of distrust among group members, and organizers expressed the need to have better planning procedures, more verified information on accomplices, and better control over the rank and file.

Dynamics of Organized Criminal Groups

According to the interviews and surveys conducted regarding internal group dynamics, members of organized criminal groups indicated six categories of members, based upon the positions they held in their group. These positions include organizers, rank and file (the actual “doers”), bodyguards, weapons procurers, helpers, and advisors (consultants). When asked how an organizer emerges from a group, just over 60 percent of the respondents indicated that the organizer himself assembled the group.

The remaining respondents indicated that the members chose the organizer or leader from among themselves. This finding is consistent with other research on the subject that indicates that is it mostly the organizers themselves who create criminal groups. Further, 53 percent of the respondents indicated that the organizers themselves, generally create the organized criminal groups, issue commands, and may control the group’s financial issues (3).

From the survey data, it appears that the presence of internal conflicts is the norm for organized criminal groups. Further, respondents suggested that relationships between organizers and group members were less favorable than those among group members. Only 19 percent of the group members surveyed noted an absence of conflicts in organized criminal groups.

Organized criminal groups instill a degree of cynicism so that criminal members do not feel they are to blame for their criminal behavior. Instead, they often resort to blaming the victim. In interactions with law enforcement,

respondents indicated that organized crime members lie, threaten and scorn officials, as well as use flattery.

Techniques for Criminal Behavior and Economic Crime

Fictitious enterprises allow organized criminal groups to embezzle property, evade taxes, illegally receive and use credit, launder money, and illegally transfer money into foreign banks. Organized criminal groups use fictitious contracts and enterprises as intermediaries to conceal extraordinary amounts paid for goods, and then deposit these gains into foreign bank accounts. The groups avoid paying taxes on this money by, for example, withdrawing it for “travel expenses,” then appreciably underestimating the totals or failing to declare expenses at all. According to Ukraine’s Coordinating Committee for the Struggle with Corruption and Organized Crime, approximately 70 percent of the currency acquired through such intermediaries does not come into Ukraine, but instead is placed in foreign accounts. Interviews with law enforcement officials reveal that this is carried out largely with the complicity of bank officials.

One recent phenomenon in terms of fictitious enterprises is the creation of currency exchange centers. These are networks of enterprises created by an organized criminal group that have been legally registered - -but are used only for shadowy financial and economic operations, particularly the illegal conversion of hryvnas (Ukrainian currency) into hard currency. It has been estimated that these centers allow hundreds of millions of U.S. dollars to be moved annually through the accounts of such fictitious structures in Ukraine into foreign banks.

Unfortunately, the efforts of law enforcement focus on the guilt of the representatives of the fictitious enterprises. Meanwhile, the clients or actual beneficiaries of the illegal profits remain hidden. Often the fictitious enterprises do not have their own stocks of materials, capital, equipment, or even employees who can be held accountable for the economic crime they serve to foster.

As a rule, figureheads or front men are used as the founders of fictitious enterprises. The “packaging” of documents necessary for the registration of these enterprises is often handled by legal experts, but the founders and managers exist only on paper. Often fictitious structures are assigned to unqualified, previously tried, mentally ill, materially dependent, or psychologically weak persons in exchange for rather large incomes, while the actual organizers maintain control of funds, stocks of materials, and capital equipment.

In order to successfully combat this activity, law enforcement must be able to establish the guilt of organizers by demonstrating that they bargained about the conclusion of contracts, that a clerical worker of the fictitious enterprise created various documents at the criminal organizer’s instruction, that organizers kept seals and stamps of fictitious enterprises, and that clerical workers were paid salaries from fictitious enterprises.



These latter crimes show how the face of organized crime in Ukraine is changing. It is just now a blend of the old thieves' world of 19th century Russia and the new entrepreneurs of a 21st century global economy. As this evolution of crime continues, the capabilities and resources of law enforcement - both in Ukraine and internationally - will likewise have to evolve to meet the new challenges.

Notes

1. Talcott Parsons, *The Social System*, Glencoe, IL: The Free Press, 1951.
2. In his discussion of the ideological and historical foundations of organized crime in Ukraine, Alexander Yarmysh makes particular reference to thieves, or "thieves-in-law" when describing members of organized crime groups. His reference to "thieves-in-law" refers to a special type of professional criminal who emerged in Russia even before the Soviet era. In his discussion of the Russian criminal tradition, Finckenauer (1998) indicated that there were two major criminal archetypes that predominated - - the thieves-in-law or *vory v zakone*, and a more general white-collar crime type known as the Soviet Mafia. The thieves-in-law originated in Russian prisons, but were derivatives of a more general heritage from the Russian peasant class. In both instances, there was a fierce rejection of official institutions, and this included most especially the Soviet State.
3. Not all survey questions were answered by respondents.

6- In the Tentacles of Corporate Raiding: Benia, Judges, Kiperman and Others

Source: Nashe Delo, Sergei Nikolaenko, October 26, 2007, <http://www.gazeta-nd.com.ua/print/?id=490>

It has recently been reported that Igor Palitsa, Igor Kolomoisky's henchman and the head of the Management Board of Ukrnafta, is going to become a member of the national Parliament from Our Ukraine - People's Self-Defence bloc (featuring under No. 62 in the Bloc's list of candidates). Another prominent "Privat-man", Igor Pikovsky, featuring under No. 97 in the list, is running some nebulous chances of acquiring a Parliamentary seat, if the list shifts seriously on account of government portfolios. Pikovsky is a protégé of Mikhail Kiperman, who, after Gennady Korban left the scene of big corporate raiding, became Privat's "number two" in this line of business. So, it would be quite pertinent to remind our readers how Mr. Kiperman and Mr. Palitsa embezzled public money in their filling stations scam, as well as refresh ourselves on some other tricks of these two characters ...

Much has been written and spoken already about the big stink involving their purchase of filling stations from their own precious selves for public money. The idea of the scam, in a nutshell, was as follows. In 2005, the government attempted to implement an idea of interventions in the gasoline market. To facilitate such interventions, it was decided to buy several hundred filling stations for Ukrnafta with public money. The project was worth UAH 2 billion. That was exactly the amount of damage inflicted on the state by Kolomoisky's people: they contrived to organize a buy-out of filling stations unfit for their purpose at astronomical prices, lining their pockets and killing the government's delusive hope of setting up a mechanism of state interference in the retail market of gasoline through Ukrnafta's filling stations network.

Today it is already hard to say why the scam was noticed only after it was brought to a successful completion. Was it just a case of negligence of governmental authorities or a case of corruption and collusion between Mr. Kolomoisky and his patrons? The really important point is different, however: none of those involved in this outrage served any time in jail for abusing their official positions and other "trespasses", even though these activities fitted quite well some descriptions of offences contained in the Criminal Code - in particular, articles relating to misappropriation of funds on particularly large scale. Just judge for yourself.

The scheme employed by Mr. Kolomoisky's people was trivial on the point of vulgarity. People from Privat spotted the cheapest offers of filling stations sold. Obviously, these were not even filling stations of Brezniev and Khrushchev era, but rusty metal junk at the back of beyond where even the hands of the local businessmen didn't reach. The filling stations were bought not only in the names of dummy companies, but also in the name of commercial entities unambiguously related to Privat and Ukrnafta, and were subsequently sold on to them.



For example, in December 2005 some of this junk was sold by Avias Plus, a company that was not even ashamed of its affiliation with Avias, a well-known Privat-related entity. On top of all, its former director soon took employment at the Management Board of Ukrnafta. Avias-Plus asked UAH 81.5 million for the dead-wood of 12 valueless filling stations.

Companies like Mawex and Seven Seventy Petroleum featured particularly prominent among the rest of the sellers of unfit and castaway filling stations. The former company is run by Pyotr Palitsa, father of the very same Igor Palitsa who, as a chairman of the Management Board of Ukrnafta, has now crossed the line between ordinary people and members of Parliament. The loving son forked out UAH 90 million to his daddy.

The latter company has been founded in the name of ... Mikhail Kiperman, member of Ukrnafta's Supervisory Board. He demonstrated an extraordinary degree of modesty, defrauding the state of just UAH 18 million. And the list of such facts goes on and on. As we have already mentioned, more than 100 filling stations were sold in this manner, with subsequent criminal proceedings instituted in respect of half of those sale transactions.

It has been shown that the average value of the junk that was priced at millions and tens of millions of hryvnas, was, according to the accounting books, in the range between UAH 80,000 and UAH 500,000. Thus, they were overpaid 30-40 and even more times! And, of course, all this crap was paid for with public money that was channeled to Privat's coffers by Kiperman's people appointed as Ukrnafta's managers.

It's high time to give the reading public some new details about the dramatis personae and performers in this play - and about Mr. Kiperman in particular. This fleshy young man is a son of Yuri Kiperman, the formal owner of Optima Oil Petroleum Company and a network of 80 filling stations. Mishanya is a member of the Supervisory Board of Ukrnafta, member of the Supervisory Board of NAK Neftegaz Ukrainy, a co-owner of Bukovel holiday resort in Carpathian Mountains, and owner of a stake in a number of large construction materials companies in Dnepropetrovsk and Dnepropetrovsk Oblast. Along with his partners, he's currently building Kievshchiria Tech Park in the suburbs of Kiev (which is another scam). Substantial portion of his assets are registered in the names of offshore companies in Cyprus and other locations.

In the recent period Mr. Kiperman became enthusiastic about the corporate raiding business, a very popular activity with Privat Group. His victims included Kiev Technical Paper Plant, Zolotonosha Engineering Plant, UkrAgroZhilyeSbytStroi Company, Darnitsa pharmaceutical company, NPO Saturn and other entities. Now Misha2 has stuck like a tick to KievGorNefteprodukt Company. But, while in the case of KievGorNefteprodukt he is afraid of coming into the open and coordinates raiding attacks on the sly, in the cases of the Technical Paper, ZhilyeSbytStroi and Zolotonosha Engineering Company he was waging his campaigns in person, without any fear of being hit back.

OJSC Kiev Technical Paper Plant attracted Mr. Kiperman's attention by the fact that it occupies a 2-hectare land plot. By developers' estimate, the value

of the plot, along with the building of the facility, is about \$3 million. In February this year, the owner of 50% of the shares in OJSC Kiev 1 Diminutive-hypocoristic name for "Michael" (translator's note) 2 Another diminutive-hypocoristic name for "Michael" (translator's note) Technical Paper Plant publicly spoke of the raider seizure of the company by businessman Mikhail Kiperman, a person closely related to companies affiliated with PrivatBank's shareholders.

According to Ivan Krishtopa, the secretary of the Supervisory Board of the company controlling 25% of its shares, on February 2 the plant was forcibly seized by "a group of people in camouflage uniforms".

According to the secretary of the company's Supervisory Board, back in autumn last year Kiperman's employee Pavel Kuftyrev addressed him on behalf of Mikhail Kiperman and Igor Kolomoisky and suggested selling the shares owned by Mr. Krishtopa and Vadim Kovalevsky, head of the company's Supervisory Board. "As he was unable to provide any evidence that he indeed represented the interests of those gentlemen, we turned the deal down",- Mr. Kovalevsky says. According to him, Mr. Kuftyrev, after his offer had been rejected, said he was going to obtain control over the company anyway. On January 23, Renaissance Capital, the custodian of the plant's shares, informed Mr. Krishtopa of the transfer of 62% of the shares to the account of Magma Business Ltd, an English company, pursuant to a judgment of the Bar3 regional court dated December 26, 2006. Mr. Krishtopa and Mr. Kovalevsky (owning, together with their relatives, 62% of the shares) insist they were unaware of the court session and didn't attend it.

Magma Business Limited is registered on the British Virgin Islands, it maintains its account with PrivatBank, and people in business circles do not doubt that the offshore entity is owned by Misha Kiperman.

While the owners of the Kiev Technical Paper Plant tried to stage some resistance in the courtroom, the former owners of UkrAgroZhilyeSbytStroi, represented by certain Pavel Slipchenko, just shrugged their shoulders when they were thrown out of their business. I don't know for certain what was the specific raiding method that Mr. Kiperman used to lay his hands on the shares of UkrAgroZhilyeSbytStroi (acting through courts or using a forged shareholders' register), but it is established as a fact that the persons in charge at the company now are the already mentioned Kiperman's henchman Pavel Kuftyrev, as well as Dmitry Leshchinsky or Tatiana Loutsak who were formerly employed by his father at Optima.

Approximately in March this year it transpired that Zolotonosha Engineering Plant became a target of a similar raiding attack waged by the already mentioned Pavel Kuftyrev. Behind his back one could clearly perceive the solid silhouette of Michail Yurievich.

Zolotonosha Engineering Plant (ZMZ) is well known in the Ukrainian market of metallurgical equipment primarily as a manufacturer of units for technical maintenance of iron tapping holes used by major steelmakers. Since 1990s, this company has been in the sphere of influence of Dnepropetrovsk-based DneproGidroMash, founded by Gennady Alymov, one of the former top



managers of NPO CherMetMekhanizatsiya, a company specializing in the design of equipment for ferrous metallurgy and using the Zolotonosha Plant as its principal manufacturing base.

Mr. Kiperman found his way into the plant through Alymov's partners named Gorobets and Zhigailo. Having consolidated his position as a modest minority shareholder, he, acting through his handy men, explained to the owner of the plant and, first and foremost, to Mr. Alymov, that if they didn't wish to sell the plant to him (Mr. Kiperman), some interesting court judgments might soon 3 A town in Vinnitsa Oblast (translator's note) see the light of day that would help Michail Yurievich either convene the annual meeting of shareholders of ZMZ on his own, or become an owner of a majority stake.

In case of NPO Saturn, a standard raiding scheme was played out. Some years ago a certain investor (meaning Mr. Kiperman & Co) bought some 5% shares of Saturn in the stock market. Owners of the company - Chmil family - filed a lawsuit, trying to challenge this transaction, but faced "incorruptibility" of the Ukrainian Court system. The situation seems to be especially savory because, despite the fact that one of Chmil brothers holds a high position in the Ministry of Defence, the family found it very tough to deal with people from Privat. In the interview for Profile Magazine on March 5, 2007, he said: "The raiders attacking my business are not even interested in the building, only in land, the 10 hectares, to be used as a construction site. One could build 15-20 buildings on the area occupied by the plant and earn something to the tune of \$2 million per building, so you can guess the price tag at issue. In three-four years one could earn \$30-\$40 million in profit...".

Kiperman's most recent target was Darnitsa, Ukraine's largest pharmaceutical company. In this case, their modus operandi was as follows: they replaced the registrar of the company using a falsified (court ruling. Secretly from the company's management the rights of keeping the company's shareholders' register (which was obviously falsified, with even a seal affixed to it being "shady") was turned over by the court ruling from Pharmregister to Deposit, a Dnepropetrovsk-based company. The case was considered by Sosnovsky Regional court of Cherkassy Oblast back in 2005 and was instituted by a lawsuit filed by Nadejda Trubochkina, a shareholder of the pharmaceutical company.

It later became known that Ms. Trubochkina never filed such a lawsuit and the judge who allegedly entered the judgment was on the wanted list. We were told at the Sosnovsky Court that the case file number the allegedly assigned to "Trubochkina vs. Pharmregister" case belonged to an entirely different case concerning recovery of alimony payments.

Still, it could' happen even to a bishop! Together with Mr. Palitsa, Roman Vladimirovich Tkach, head of Ivano-Frankovsk Oblast Administration, became member of Ukrainian Parliament, running as candidate from Our Ukraine - People's Self-Defence. He proved to be too hard a nut to crack for Mr. Kiperman.

As we have already mentioned, Misha and his daddy are co-owners of Bukovel holiday resort, where they like to rest in a cozy company of Privat

people. Some malicious tongues say that one such meeting was dedicated to a savory issue of "exerting physical pressure" (read: "elimination") of the oblast governor Roman Tkach, who initiated a review of the cost of damage to forestry caused in the course of the development of the resort site and forced LLC Skorzonera (the owner of Bukovel) to make an addition payment in compensation for the damage to forestry to the tune of UAH 7 million. Still later, he turned down LLC Skorzonera's request for provision of 137.6 hectares of land under a long-term lease altogether. I don't know where it all ended, but, judging by the fact that Mr. Tkach is still alive and actively engaged in politics, Mr. Kiperman either managed to talk the governor into some al'angement or put his tail between his legs and is laying low.

Mr. Palitsa and Mr. Kiperman lined their pockets very nicely on sales of gas to the public at overstated prices. You may remember that in 2006 the government found a way to reduce price of gas for the consumers from UAH 414/1,000 m³ to UAH 339/1,000 m³.

This decision of the Cabinet of Ministers became possible thanks to the findings of the parliamentary investigation commission that looked into the situation concerning the supply of natural gas to Ukrainian household consumers. The commission identified unjustified costs incorporated in the gas prices. As a result, the consumers were overpaying considerable money for their gas.

Ukrnafta was the first among the companies showing the greatest insolence. The analysis undertaken by the State Price Control Inspectorate showed that in Ukrnafta's case the cost of gas of Ukrainian production stood at UAH 175.25/1,000 m³.

Let me remind you that the consumers had to pay more than UAH 400 for every cubic meter of gas. This was because Mr. Palitsa used to supply cheap Ukraine-produced gas to Mr. Kiperman, who, in turn, pumped this "blue fuel of private use" into the Ukrainian underground storage facilities. In this way, Group's traders Energoalliance and Indeko amassed 1.8 billion m³ of gas and Ukrnafta another 1.8 billion m³.

Privat used all these "goodies", making no bones of it. Who paid for them, though? All those poor old people who had to overpay for the "cocktail" of domestic and imported gas instead of paying just for Ukraine-produced gas alone. But all the Ukrainian gas was "eaten" by Mr. Kiperman, nothing was left of it for the people.

All it was done for the benefit of foreign offshore "investors", who are so praised by Monia and whose interests are protected by Mr. Pukshin and Co. So, that's the kind of the "People's Union" and "Offshore Self-Defense" we are getting here ...

In this context, it was very wise of the investigation commission on the gas issues to adopt the following paragraph in its Resolution No.13: "Consider the issue of bringing the activities of OJSC Ukrneft and GAO Chernomorneftegaz in compliance with the Law of Ukraine "On the State Budget of Ukraine for the year of 2006" and the provisions of the Regulation of the Cabinet of Ministers



of Ukraine No; 1729 dated 27.12.2001 "On Measures to Ensure Supply Natural Gas to Industries of the National Economy and the General Public" by revoking their licenses for supplies of natural gas at unregulated rates issued to them by National Commission for the Regulation of the Power Industry."

Prominent Privat people maintain long-standing relations with Igor Pukshin, the present Deputy Director of the Secretariat, who is currently playing the role of a "trusted thief" in the retinue of Viktor Yushchenko.

Mr. Pukshin was promoted to lucrative positions with the support of Viktor Pinzenik in the early 1990s. He had the job of the head of Legal Department at the State Property Fund of Ukraine when it was chaired by Yuri Yekhanurov. That period had seen a lot of scams associated with voucher privatization, and all of them could only be implemented with the involvement of the Fund's Legal Department. In 1996 he was appointed the Deputy Minister of Justice of Ukraine and kept this job till 1998, while resignation of his buddy Sergei Golovaty from the Ministry. Following the maxim "whoever keeps watch of the pharmacy has lots of cotton wool", on May 29, 1998, the Deputy Minister obtained an attorney's license, which he soon made good use of.

Starting from 1998, Mr. Pukshin became a leading partner at Bona Fides legal association; later he fell out with another founding shareholder of the association and moved to Pravis legal firm headed by well-known attorney Alexey Reznikov. The name of the firm was formed from the initials of its three founders: Igor Pukshin, Alexey Reznikov and Sergei Vlasenko. However, he didn't stay there long. Later Mr. Vlasenko and Mr. Reznikov didn't hide their critical attitude towards their former partner and his moral stature. After Mr. Pukshin left the firm, it changed its name to "Reznikov, Vlasenko and Partners". On September 1 2004, our hero founded his own firm called "Pukshin and Partners", which, according to those "in the know" targeted as its customers oligarchs in general and Mr. Kolomoisky in particular. In this position he used to deceive Neftegaz, UkrGazDobycha and UkrTransGaz, making them pay legal services at contract rates.

The farther in, the deeper. Mr. Kiperman, in partnership with Mr. Pukshin, nicely "stripped down" NAK, headed then by Mr. Ivchenko, using a legal dispute around Optima Trade. A reference note. CJSC Optima Trade specializes in wholesale trading of electricity and acts as an intermediary in transactions involving sales of metals, minerals and chemical products. The company's turnover is not disclosed. Optima Trade is a member of Optima group of companies controlled by Yuri Kiperman, Mikhail's father.

Journalists called this story "A Golden Note Fraud". Let us remind you the principal storyline. In 2000, the tax office recovered through courts UAH 273 million of unpaid taxes from DK UkrGazDobycha. The enforcement agency set about the implementation of the Court judgment and seized from DK UkrGazDobycha a promissory note owned by it. Ukrgazprom's liability on the note was UAH 170 million.

The judgment for the recovery of taxes from DK UkrGazDobycha was subsequently reversed by court, but the enforcement agency illegally sold the

said promissory note for UAH 10.3 million, or 6% of its par. Through a number of dummy companies the note landed up with CJSC Optima Trade, which claimed the amount of UAH 170 million from NAK. However, the Supreme Commercial Court of Ukraine interfered and didn't let it cash the note: in February 2004 it dismissed the lawsuit and found that the note acceptance formalities executed by JSC Ukrgazprom didn't comply with the law.

After that, CJSC Optima Trade filed a suit against Neftegaz's subsidiaries, UkrGazDobycha and UkrTransGaz, and the Kiev Commercial Court in July 2005 ordered collection of the amount of UAH 170 million from UkrTransGaz. The situation was rectified by the Appellate Court and the Supreme Commercial Court, who dismissed the lawsuit and pointed out that, first, NAK's subsidiaries were not legal successors to Ukrgazprom; secondly, that CJSC Optima Trade was not a legal holder of the promissory note, as it had obtained it through its illegal sale by the enforcement agency; indeed, the promissory note didn't bear a continuous line of endorsements; third, Ukrgazprom had made an illegal acceptance of the promissory note, which was confirmed by the court judgment.

Whatever the outcome for the parties to the case, the fees collected by Pukshin and Partners was 3.8% of the amount of the lawsuit. Which was UAH 6 million - quite a hefty premium forked out by Privat in general and Mr. Kiperman in particular?

After Privat ultimately changed its tack to financing the president's retinue, a decision was taken to infiltrate Mr. Pukshin into the Secretariat. No sooner said than done. But it was just the first step towards achieving the goal the Group set to itself: to get an unlimited control over the national judicial system.

Under the pretext of the need to ensure Mr. Pukshin's influence on the Constitutional Court (so that it doesn't pass by any chance any decision that would be contrary to the President's interests) and the judicial branch of the state power as a whole, an idea was put forward to officially vest him with powers belonging to the President. In particular, pursuant to the provisions of Part V of Article 20 of the Law of Ukraine "On the Judicial System of Ukraine", a chairman and a deputy chairman of a court are appointed to, and removed from, their office by the President of Ukraine. Besides, a chairman and a deputy chairman of a court (except the Chairman of the Supreme Court of Ukraine and the Deputy Chairman of the Supreme Court of Ukraine) are appointed to their jobs for a five year term by the President as well.

What did Mr. Pukshin do? Not having the heart to address Viktor Andreyevich in person with this request about this sort of power sharing, he tempted Viktor Baloga, head of the Presidential Secretariat, to sign an Order dated February 7, 2007, according to which the issues of drafting presidential decrees concerning the appointment and dismissal of judges, establishment and liquidation of courts, transfers of judges and their appointments to administrative positions in courts, as well as issues of granting awards to judges fall in the exclusive competence of Mr. Pukshin.



In order to "lock" his system of control over judges, Mr. Pukshin arranged for an appointment of Ruslan Kiriliuk, his partner in legal firm, native of Kharkov Oblast, as head of the Office for representing interests of the President of Ukraine and advisory, consultative and other support bodies and agencies set up by him, with Ukrainian courts. Under this pretext, Mr. Kiriliuk goes around courts and deals with pecuniary issues on Mr. Pukshin's instruction.

Mr. Pukshin also managed to squeeze another partner of his, Andrei Bogdan, native of the city of Lvov, into the list of parliamentary candidates from Our Ukraine - People's Self-Defence under the quota of People's Self-Defence and Mr. Bogdan is already trying on the parliamentary ensign.

So, now, IIS, soon as some judge is appointed to supervise any case interesting for Privat, Mr. Kiperman or the "free sponsors" of the Secretariat' chief lawyer, such servant of Themis receives (directly or through messengers) indications as to how he or she should consider the case and what judgment to enter. And just let him try to disobey! The great and powerful Mr. Pukshin may simply liquidate a particular court (they say, this is exactly how he threatened to deal with a certain provincial lame duck, a chairman of some court in a far away province), not to mention, disciplinary prosecution of any disobedient, dismissal of his superior from his or her administrative position and other penalties.

Yes, formally the documents drafted by Mr. Pukshin are signed by the Guarantor of the Constitution and the head of his Secretariat. I assume that the former doesn't read them too thoroughly, while the latter, on the other hand, reads and counts everything. Therefore, everybody is better off. Except the country at large, where Themis, from a girl with a blindfold on her eyes, becomes a brazen-faced maidservant of those who managed to reach her first.

Named among the judges indirectly sponsored by Mr. Pukshin are Nadejda Kapatsin, judge of the Pechersky court who is said to be uniquely cynical (in terms of the conduct of the court proceedings) and odious Ivan Volyk. Mr. Volyk became notorious for his way of handling court proceedings in cases relating to UNA-UNSO (Ukrainian National Assembly and Ukrainian People's Self-Defence), as well as the case involving innocent citizens being run over by Leonid Chernovtsy's Mercedes.

Till recently, Mr. Volyk was employed at Goloseyevo court, where he served as one of Mr. Pukshin's henchmen, It was Mr. Pukshin who helped protect Mr. Volyk from dismissal on January 16, 2007, On that day, the Supreme Board of Justice considered the proposal of Renat Kuzmin, the Deputy General Public Prosecutor, for Ivan Volyk's removal from his job of the judge of Goloseyevo (Kiev district) court for violation of the judicial oath, On the eve of consideration of the issue, pressure was brought to bear on some members of the Supreme Board of Justice, let's not go into the graphic details of who called whom and who was told to do what. We only note that Yushchenko-president appointed the judge who put in jail participants of protests against Leonid Kuchma and hallowed the image of Viktor Yushchenko, to a lucrative position at the Supreme Commercial Court, Where he feels very self-assured,

Luckily for him, the administration of the court is "in the same board" with him, being startled with fright at every telephone call from Mr. Pukshin,

We should mention in passing that the court administration was also well-versed in these games, They take great care of employing observant and accommodating people who will remember who they owe their job to, For example, when the meeting of the Justice Committee discussed candidates for election of judges into positions with perpetual term at the Supreme Commercial Court last October, a -complaint was submitted by the State Property Fund against Svetlana Shevchuk. It's point was quite clear: the judge drove a state enterprise into bankruptcy by arbitrarily deciding on the level of the government's shareholding, One could only do some guesswork as to who was the interested party in this case: one of Parliament members close to Privat Group intervened in the discussion and began defending the judge, After that, her future superior stated that the complaint "was specifically thought-out and arranged as a mean provocation designed to hinder her career promotion", He added that he was really happy that such a remarkable person was taking employment at their court, Now, try to guess, who Ms, Shevchuk feels herself to be indebted to and what kind of judgments she passes?

People at "Our Ukraine - People's Self-Defence" have already said many times that Mr. Pukshin and Co, do considerable damage to the "proud image of the Orange idea," Their greediness and the fact that some of the top people of the group are mentioned in connection with facilitating illegal schemes of assets appropriation, including their misappropriation from the state, that are employed by Mr. Kiperman and Mr. Pukshin, representatives of Privat Group, surely tar the image of this faithful pro-presidential force, Some good people have already shown the President some calculations demonstrating the "economic activities" of Mr. Pukshin, Mr. Palitsa and Mr. Kiperman, The figures set one thinking, One wonders, how long are the judges going to tolerate the regime of "manual control" with telephone calls from the Presidential Secretariat? How long will Vasily Onopenko (Chairman of the Supreme Court), Sergei Demchenko (Chairman of the Supreme Commercial Court) and Alexander Paseniuk (Chairman of the Supreme Administrative Court) be able to endure Igor Pukshin's legal outrages and excesses?

7- State of combating organized crime and corruption in 2012

The prosecution to the court directed 1790 criminal cases involving 2189 defendants who committed 2566 crimes of corruption. Of all the police officers investigated corruption cases 95% completed proceedings it is investigating prosecutor. Almost half of the cases submitted to the Court in this category - the receipt of bribes (889).

In addition, the Court of accusatory acts directed 365 cases of abuse of power or position (364 of the Criminal Code of Ukraine) 164 cases of misappropriation, embezzlement, or obtaining property through abuse of office (§ § 2 - 5 Article 191 of the Criminal Code of Ukraine), 81 the case of commercial bribery of an official legal entity of private law (3 st.368 Criminal Code of Ukraine), 62 cases on abuse of power or authority (st.365 Criminal Code of Ukraine) and others.

The efforts of investigators and prosecutors were aimed primarily at detecting corruption offenses committed by officials of higher categories, government and local government, law enforcement and regulatory agencies. In particular, the criminal charges were brought against 86 officers of the district (including 10 goals) and 33 - the regional state administrations.

Last year complete investigation of criminal case against 273 police officers, 71 - State Tax Service and 17 - Tax Police, 67 - State Penitentiary Service, 69 - Customs 29 - Civil Protection authorities, 16 - Border Guard, 9 and 12 prosecutors - security, 94 - Armed Forces of Ukraine and 29 - Civil Protection units.

Of the prosecution last year initiated 32 criminal cases against members of 3 May judiciary. According to the results of the preliminary investigation to the court sent the case against the 31 judges (including the head of one appellate and 4th district courts), two assistants and a judge in the court of Chief of Staff.

In iddilom to investigate crimes against acts of corruption Prosecutor General of Ukraine initiated 57 criminal cases for receiving bribes, with a total of tanovyt nearly 13 million, and seized the accused's property in the amount of 7.8 million. 41 criminal case against 93 defendants for a specified period forwarded to the court for consideration on the merits.

In investigative inquiry of the Department of Special Cases were 14 criminal cases on crimes of corruption, of which 5 is directed to the court.

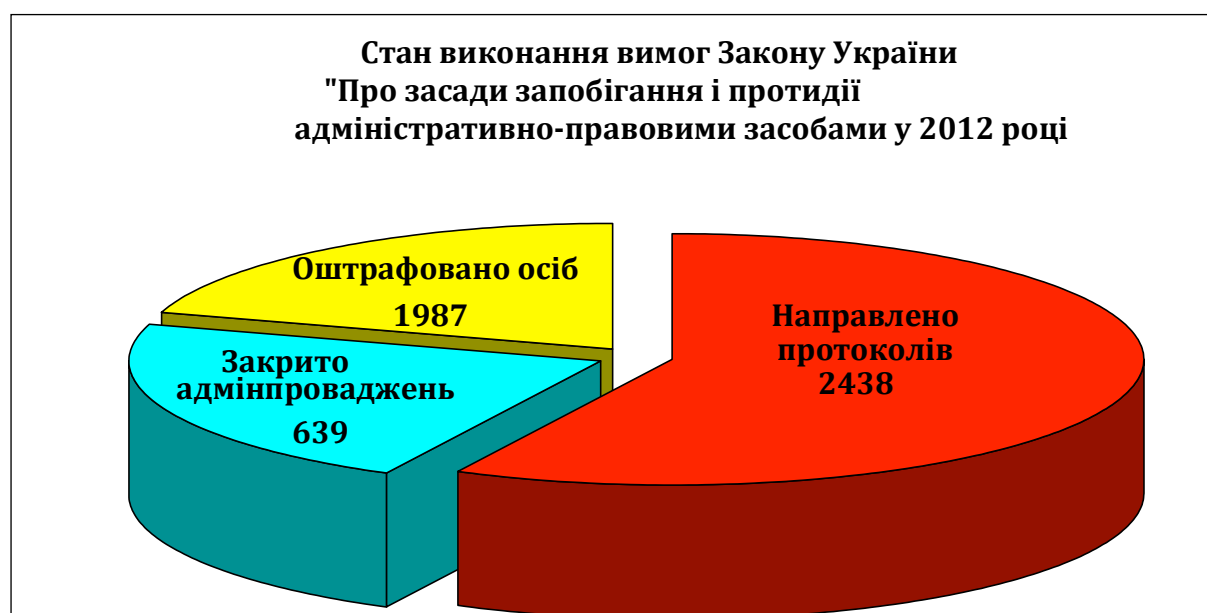
Categories of public officials prosecuted for corruption offenses

Number	categories of employees	in 2012
1	Deputaty Regional Council	1

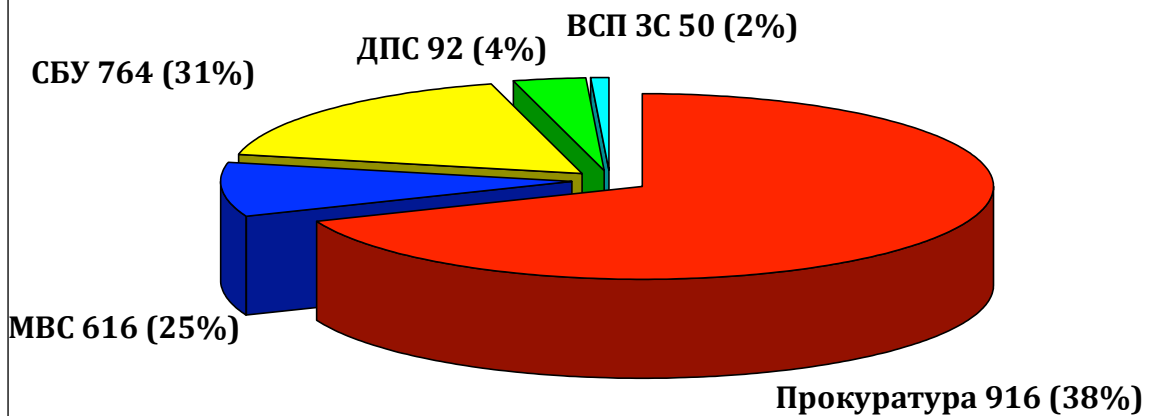
2	MPs Ukraine	0
3	Central government	284
4	Central Administration	86
5	Local Administration	33
6	Prosecution	9
7	Security Service of Ukraine	12
8	Central Tax Service	71
9	Tax Police	17
10	Police Service	69
11	Ministry of the Interior	264
12	Judges	31

For completed cases prosecutors investigating last year set of damages in the amount of 519.9 mln, of which 474.5 million. During the pre-trial refunded 228.2 mln, Including 212.7 million. State and, in addition, the arrest of the accused to have value 502,4 million USD and seized property, cash, securities, foreign currency worth 248.6 million.

Last year by the prosecution to the court directed 916 (38%) of 2 4 38 s record of administrative corruption. With a result of their review to the charges were brought against 878 (44%) of 1 9 87 wasps and would be closed adminprovadzhen 157 (15%) of these 91 (21%) - in the absence of the event and the offense.



**Направлено до суду адміністративних протоколів
про порушення вимог Закону України
„Про засади запобігання і протидії корупції”
за 12 місяців 2012 року**



Administrative charges protocols on corruption brought the prosecution:

- 46 civil servants (25, 5%), of which 4 - 3 -4 category (25%) and 42 - 5-7 category (25%) January 7 staff of district administrations (3 5%);
- 141 governors and persons and local governments (39%), with 90 employees 3 - Category 4 (38%) and 51 th -5-7 category (42%);
- 111 officials of the Interior (6 3%);
- 46 OS and to the State Penitentiary Service (5 1%);
- August 6 officers armed S il Ukraine (58.5%);
- 10 employees in public services and border (71%);
- 10 officials in the tax service (13.5%) and 1 CUSTOMS second (4.5%) of service;
- 9 employees of departments and civil defense (3 4.5%);
- 79 governors and official OS's and have other public authorities (32%);
- 48 people who provide public services (6 1, 5%);
- 102 officers and at least OS and legal persons of public law (4 3%);
- 71 pers at least as well as perform well is organizational and administrative or housekeeping duties in legal entities of private law (53%);
- 50 officers and individuals for receiving improper benefits from them other business liability (50%).

8- Relevant and high-profile corruption criminal cases (proceedings)

1. Criminal proceedings against the Director of the Institute of Education National Academy of Pedagogical Sciences of Ukraine (Madzihon VM) and his son (Madzihon VV), which demanded that a representative of a limited liability illegal profit of **11 million U.S. dollars**, with the assistance in the procedure of preparation and signing of the lease integral property complex of the state, an area of 2.3 sq m These persons were detained after receipt of the amount due to a bribe of **800 thousand and 250 thousand U.S. dollars** (ongoing appellate review).
2. Prosecutor of Kyiv in **September** awarded a notification of suspected **bankruptcy administrator** (Tolcheyev AU), **demanding** undue benefit **700 thousand U.S. dollars** for the procedure of reorganization and conceal violations of the law in carrying out financial activities of the company. At the direction of the suspect got his driver of the illegal benefit of **300 thousand U.S. dollars** (investigation ongoing).
3. Kyiv Prosecutor's Office in March, **the court sent the indictment** against the **board member of a private company "Ukrproftur"** (Dzyubak AV), which is posing as Acting Chairman of the Board encouraged entrepreneurs to giving illegal benefit of \$ **305 thousand dollars** for a decision on the transfer of the latter part of the territory leased vehicle maintenance (ongoing trial).
4. Investigation department of the Interior Ministry of Ukraine in Odessa region reported suspected **bankruptcy administrator** (Lyaskovtsy OV), who demanded and received undue benefit of \$ **150 thousand dollars** for failure to take action to meet the requirements of lenders in consideration of the proceedings in the bankruptcy case (investigation continues.)
5. Kitsman Chernivtsi Oblast district court considered the criminal proceedings against the **head of the village council Kamyansko Storozhinetskiy area** (Gidora VI) that abuse of authority, demanded and received illegal benefits from a private entrepreneur in the amount of **130 thousand U.S. dollars** for the provision of lease of land and water fund (trial in progress).
6. Prosecutor Zaporozhye region this year sent to court indictment on **organized group** consisting of **Melitopol Mayor**, two deputies and two other persons during 2011-2012 demanded and received undue benefit of over **1.5 million**. managers of enterprises engaged in the carriage of passengers (trial in progress).
7. Lviv region in the current year over pre-trial investigation in criminal proceedings against the **Director of the Lviv branch of the auction**, which, **together with officials of Mykolayiv City Council** received from the proprietor undue advantage of \$ **1 million**. Assistance in redeeming the land area of 3.42 ha construction foundry through fraudulent auction (trial in progress).



8. Amounts Prosecutor's Office in August of this year, the court sent the indictment on **the head of a Kharkiv branch of PJSC "Creditprombank"** that abuse of authority, illegal instruction gave the cashier department to issue cash from the cash register for **\$ 1 million.**, Without any documentation and transferred these funds to the Director of a Limited Liability Company (trial in progress).

9. Lviv in **the head two specialized committees of the regional center of medical-social expertise** in collusion with doctors arranged systematically undue advantage for the establishment of disability due to illness. While documenting members of criminal groups recorded 97 episodes of obtaining undue advantage **in the amount of 166 thousand.** Criminal charges **were brought against 10 health workers** whose property **seized worth over 2.3 million.** (Trial in progress).

10. The Prosecutor of the city of Sevastopol in July this year, the court sent the indictment in relation to the sector head of the Sevastopol City Council, who through abuse of office, helped illegal alienation of ownership community of the land **area of 13 hectares** worth nearly **6.5 million.** (Trial review of progress).

11. The Prosecutor of the Autonomous Republic of Crimea in August submitted to the court indictment in relation to the village council **deputy** Novofedorivskoyi Saki district and **village heads**, who demanded that the citizen undue benefit of **\$ 225 thousand dollars** for influence over deputies and a positive decision on granting the ownership of land plots (trial in progress).

12. Dnipropetrovsk Oblast Prosecutor's Office sent to the court indictment in relation to **head of the Department of Labour and Social Welfare** of the City Council, which is composed of an organized group, by committing a series of crimes officers took over the local budget totaling **\$ 1.3 million.** (Trial in progress) .

13. Verdict Railway District Court of Simferopol on 09/02/2013 found guilty and sentenced **to 6 years in prison** (with disqualification to hold office for 2 years in law enforcement and forfeiture of property, deprivation of the special title of "Captain Internal Service") **Head of department social and psychological services** Simferopol penal colony № 102 Levaka AL into the transfer of sentenced purpose of sale of drugs.

14. 10.04.2013 year sentence Shevchenko district court of the city was sentenced **to 7 years in prison** (with disqualification to hold positions in law enforcement, confiscation of property and deprivation of the special title) **Chief of the fight against drug trafficking** Chervonograd MW PG MVDU in Lviv Oblast tip V., who demanded and received from illegal drug users benefit totaling over 130 thousand. for "kryshuvannnya" their activities related to illegal sale of narcotics.

15. 04.09.2013 Lviv Oblast Appellate Court sentenced **the deputy head of the Lviv regional territorial office of the Antimonopoly Committee of Ukraine** V. Savchuk (Who demanded and received undue benefit by

reducing penalties on private individual entrepreneur, in connection with the commission of violations of the law of unfair competition): **up to 5 years imprisonment** with deprivation of the right to occupy positions related to the implementation of organizational and administrative responsibilities in the executive branch, for 3 years and confiscation of all property belonging to him. And also denied 7 rank 4 categories of civil servant.