The Ukrainian Week

International edition

#7 (113) July 2017

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RIDING THE ANTI-CORRUPTION TIDE

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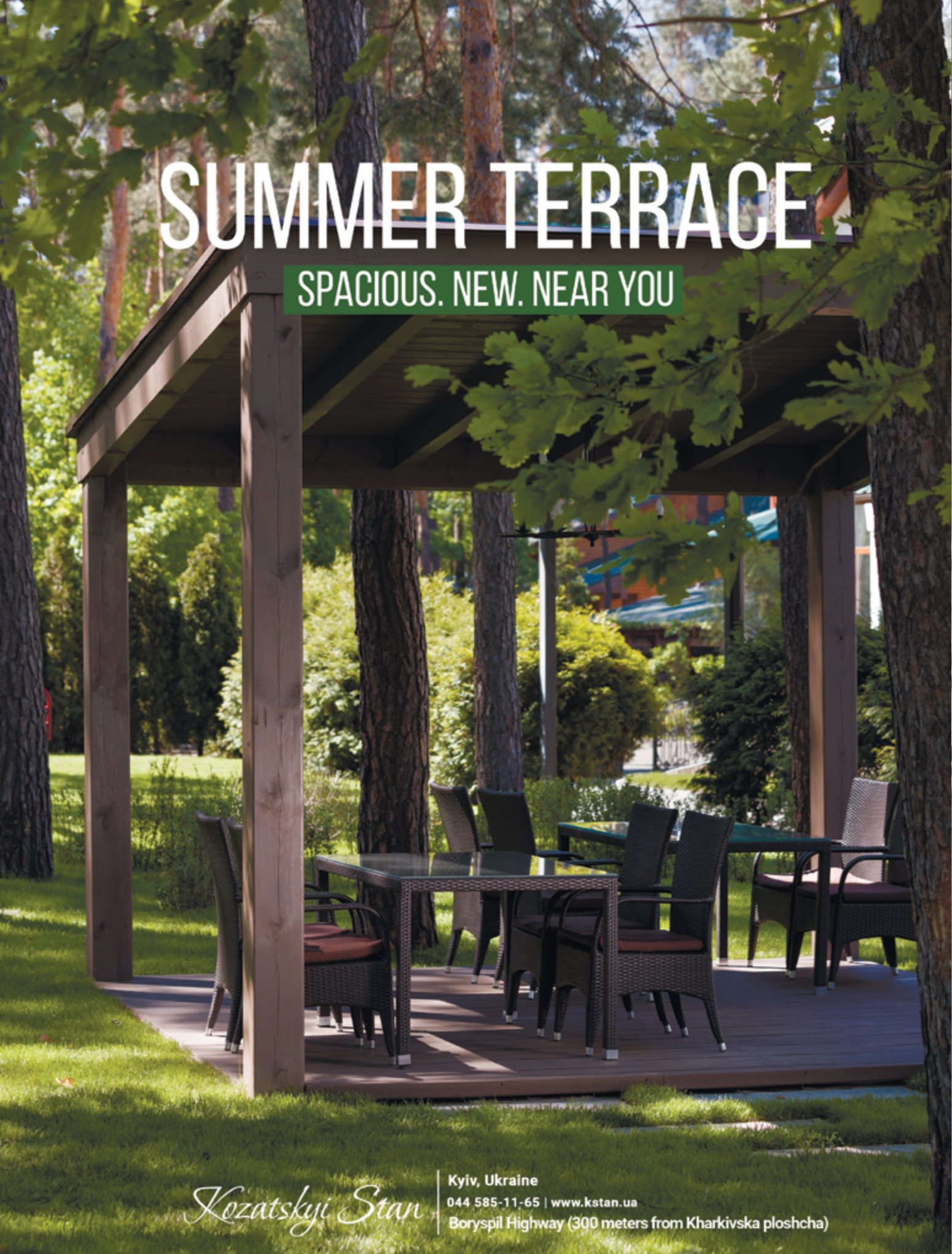
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The Ukrainian Week

The Ukrainian Week #7 (113) July 2017
Founder ECEM Media GmbH. **Publisher** ECEM Media GmbH
Address Austria, Am Gestade,1, 1010 Vienna
State registration certificate КВ № 19823-9623ПР 19.03.2013
Chief Editor Dmytro Krapyvenko
Editors Anna Korbut, Lidia Wolanskyj

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Office address Kyiv, Ukraine, 36A, vul. Bohdana Khmelnytskoho, apt. 3
Print run 15 000. **Free distribution**
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BRIEFING

The very costly secret

Andriy Holub

It's been more than two months since Prosecutor General Yuriy Lutsenko announced that US $ 1.5 billion of "money belonging to the Yanukovych crime syndicate" had been confiscated. The money had barely been transferred into the Treasury when ATO Prosecutor Kostiantyn Kulyk, who Lutsenko says was in charge of this investigation, was awarded the Presidential Order "For Service" III Degree.

Official sources still offer little information about the details of this case. On April 28, Lutsenko announced that one of the members of the "Yanukovych crime syndicate" had cut a deal with the investigators to reveal the way the organization operated and to name other members. Based on this plea bargain, the court was able to confiscate "nearly US $1.5bn from the accounts of several companies.

However, the Single Registry of Court Rulings (SRCR) contains the ruling of the Donetsk Oblast Court of Appeals in a suit brought by six Cypriot and Swiss companies who challenged the March 28

PHOTO: UNIAN

decision of the Kramatorsk District Court. This document makes it clear that what is being challenged is this plea bargain with the investigation that brought the PG so much glory. The seven foreign companies are the owners of some of the confiscated accounts. According to the agreement, the suspect admitted his guilt in two crimes. One of these involved participating in the criminal syndicate, the other involved laundering money that had been gotten through illegal means. This is about as much as can be learned from open official sources. Incidentally, the Appeals Court denied the seven companies the right to a second hearing in the case.

Far more can be learned from unofficial, but equally open sources. The name of this "member of the Yanukovych crime syndicate" did not manage to remain secret for even a day. By evening on March 28, the press got its hands on several pages from the Kramatorsk court ruling, which not only mentioned the suspect by name as Arkadiy Kashkin, but also his residential address and the names of several companies whose money was confiscated. It appears that Kashkin was the fictive director of Gas Ukraina-2020 in Serhiy Kurchenko's circle, for which he had already been tried in 2015, also based on a plea bargain. At that time, Kashkin admitted that he sold his passport for US $500, after which he was made director of the company. This crime cost him UAH 51,000 in fines, nearly US $2,000.

AN ECHR DECISION THAT GOES AGAINST UKRAINE COULD PUT A FINAL END TO ANY ATTEMPTS TO LEGALLY RETURN YANUKOVYCH'S MONEY. IT MIGHT HELP OFFSHORE COMPANIES HAVE THEIR MONEY LAUNDERED

The companies whose names became known together with Kashkin's, according to the SRCR, were involved in other criminal cases as well. Some of them were first noticed back in 2014 in the material evidence in a case charging former NBU Governor Serhiy Arbuzov with money-laundering through a "Bank TV" that he set up under the central bank. As of the end of May 2017, this case remains unresolved. Later on, these companies appear in a case about billions in machinations involving domestic government bonds (OBDP), supposedly with the participation of top officials in the Yanukovych regime. So far, there's no information about a final judgment in this case, either.

However, the PGO and its boss, Yuriy Lutsenko, continue to earnestly maintain the "secret of Polichinelle" in the full text of the Kramatorsk District Court's ruling. Officially, the military prosecutor has forbidden the publication of the ruling for security reasons. Even without this, though, it's hard to give a final answer to the $64,000 question: What kind of information about hypothetical deals involving Yanukovych, Kurchenko and Co. and worth billions can be provided by someone who sold his passport for a mere $500?

On July 4, the precedent of the Kashkin case was reviewed at a session of the VR Committee for countering corruption, which was called after Transparency International Ukraine submitted an appeal. Officials from the military prosecutor's office who might have provided answers to at least some of the questions ignored the meeting. According to TI Ukraine representative Andriy Sliusar, this raises doubts about the presence of a predicate offense in this high-profile case. In other words, accusing someone of laundering money that was gained by illegal means is only possible after the "illegal provenance" of the money has been proven in a court of law.

"By law, the court is not supposed to recognize the agreement with the investigation if there is no objective evidence of a crime," says Sliusar. "But the problem is that the court ruling has not been published, so the arguments used by the judges in the case are not known."

MP Serhiy Leshchenko, who was at the committee meeting, noted that even a request by MPs to make the court ruling available was denied. Nevertheless, he somehow managed to get his hands on the decision. "I can say openly that I have seen the ruling," Leshchenko says. "There are two parts. The first is about Kashkin and Gas Ukraina-2020. The second is a description of the money-laundering scheme involving the Yanukovych crime syndicate. But there is no link between the two."

Meanwhile, Leshchenko is not revealing his sources. However, the SRCR contains other court rulings that generally point to the scheme Leshchenko mentions. From March until the end of May this year, the Komintern District Court in Kharkiv ruled on at least five cases involving Kashkin's "colleagues"—other fictive directors of companies related to Kurchenko. In contrast to the Kramatorsk Court ruling, there weren't any special confiscations but they also involved plea-bargaining and contain detailed descriptions of how the Yanukovych-Kurchenko group organized their crimes—without reference to any court rulings that might confirm this. There is also a list of over 400 companies through which money was supposedly laundered. Of them, at least 140 are registered in Cyprus, Switzerland, Panama and other offshore zones, including the ones already known to have been subject to confiscation.

Of course, not all of these 140 companies kept money in Ukrainian bank accounts. Still, a significant number of them had such accounts and lost their money after the Kramatorsk case. The list includes the seven companies that tried to challenge this ruling in an appeals court: Wonderbliss LTD, Erosaria LTD, Aldoza Investments Limited, Opalcore LTD, Akemi Management Limited, Loricom Holding Group LTD, and Foxtron Networks Limited. Dmytro Shcherbin, who represents three of the firms, says that after the Donetsk Oblast Court of Appeals denied them a hearing, the lawsuit has been passed on to a cassation court, Ukraine's High Specialized Court. He adds that neither he himself nor his clients have seen the full text of the Kramatorsk ruling. When asked if his clients will resort to the European Court of Human Rights, Shcherbin responds, "If the cassation court rejects our case, of course, we will turn to the European Court. No question about that."

According to TI Ukraine's Sliusar, an ECHR decision that goes against Ukraine could put a final end to any attempts to legally return Yanukovych's money. He notes that if investigators have grounds for doubting the provenance of this money, then it's hard to imagine how this might be proved once the offshore companies have an ECHR ruling in their favor in their hands. In this case, the ECHR ruling will effectively have laundered all the money.

Farmers vs agriholdings

Oles Kramar

What kind of land market Ukraine needs

The opportunity to buy and sell farmland has turned into a key factor of political struggle in Ukraine. Few politicians do not lament the threat of modern latifundists "buying up land for peanuts" in case the sale ban is lifted. This rhetoric has been serving the interests if big and giant agribusinesses for two decades now, allowing their owners to appropriate a lion's share of land-generated revenues and concentrate more and more of the land in their hands.

Today, the owners of farmland in Ukraine are forced to lease it to agricultural holdings for at the term of least 7 years and a monthly fee of UAH 1 or 0.03 cents per are (100 m2). The owners have no opportunity to take a loan collateralized by their land and work on it effectively. Yet the law prohibits them to sell the land. They are thus left with no choice but to lease their land on discriminatory terms to the agricultural holdings that are often monopolies on the local market. If the land stands unused for too long, the owner can be accused of not using his or her patch for farming purposes and deprived of the right to own it based on the Land Code.

This situation benefits big agribusinesses so much that they have actively resisted the land market for 15 years now. For now, nothing stops them from expanding their latifundia by thousands and, possibly, millions of hectares through cheap rent. They can easily impose their conditions on the poorly informed owners who hold patches of several hectares each and are not united in any associations. Another scary stereotype is that foreigners will come and buy up land if the ban is lifted. However, they have long been controlling extensive patches of farmland in Ukraine through long-term lease and local intermediaries. Finally, all big agricultural holdings in Ukraine work as legal entities through offshore schemes.

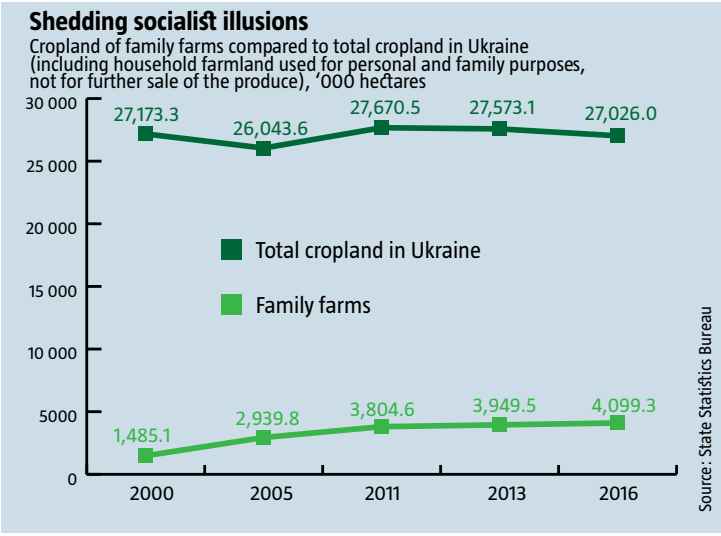
LAND MARKET AS A TOOL

The country is paying a very high price for the status quo. This is illustrated by the degrading countryside and its infrastructure even as agricultural output, exports and profits grow. The owners of large agribusinesses often live in Kyiv or abroad, so they have little interest in taking care of the land or rural infrastructure.

Unlike big agricultural holdings, small and medium farming businesses have no pocket banks or access to international financial markets. They struggle to get loans. The funding they manage to obtain, collateralized with future crops or equipment, is extremely costly and cumbersome given the high risks. Lending problems hit the development of livestock breeding or storage infrastructure the hardest. SMEs in agriculture lack the funding badly; improvements would expand the prospects for SMEs. The big businesses, by contrast, have the funding and are developing these sectors.

So, the priority question is how to break this trend if the land sale ban is lifted and to transit to a strong competitive national farming business. Among other things, it can protect Ukraine from the prospect of foreign domination in the country's farmland. Ukraine's interest lies in converting the success of the agricultural sector into the appearance of resilient and numerous small and mid-sized businesses in agriculture. These will make help make the nation's social fabric and contribute to the development of the rural territory around their location.

The farmland market should be launched despite the fact that a lot has yet to be done for it to function properly. The electronic platform of the State Land Register launched in 2013 has flaws. In 2015, the Public Cadaster Map became freely accessible. In 2016, the State Land Committee developed software to automatically exchange data on land plot owners with the Ministry of Justice. The aim was to diminish corruption risks in the process. Today, the map shows 100% of land administration certificates. However, more is to be done for the land cadaster to perform all of its functions. There is no full information on all land plots in it yet. The uniform system of spatial coordinates or plot identification is not used universally. A uniform system of the land cadaster data and its accuracy has not been introduced



yet. The cadaster is being filled with data slowly given the amount of work to be done. According to the estimates of the State Geodesy, Mapping and Cadaster Agency, all the lacking information on land plots in Ukraine will be collected in the next 2-3 years.

PRODUCERS VS RENT SEEKERS

It is important to note the conflict of interest between the producers and the owners of land. Unless they are one entity, physical or legal, they will be in conflict over the distribution of the rent generated by the land. The owners will want to maximize the fee they get while the producer will want to minimize costs in order to generate maximum profit from the final product, so that he can compete with his rivals pricewise and invest more into further production.

After the collective farms were disbanded, their land plots were distributed to millions of peasants so that they could actually live and work on that land and evolve into a new class of landowner farmers. For various reasons, most of those who received or inherited this land have not and will not become these farmers. If these land plots interest them solely as the source of rent fee or an asset that can be sold, the task of the state is to encourage them and simplify the process by ensuring the transfer of the land ownership from the non-producing owners to those who will actually farm on it.

If the land market evolves in a different manner, Ukraine might soon end up with the owners of land plots and farming companies that are not linked to the rural territories and have no interest in contributing to their development. Instead, they will be trying to squeeze out maximum profit out of them. This will push the degradation of the countryside deeper with every decade.

Farmland and the countryside where they are located can only evolve fully if those who own and work on the land reside there, and have interest and resources to help that countryside develop. The best way to accomplish this in a market economy with modern farming technologies is to have small and mid-sized farmers that own the land they work on.

Another important task is to eliminate the outdated concept of "family farms" as the business that uses little to no hired labor from the legal framework. The Law On Family Farming dated June 19, 2003, defines it as the business based on the labor of the household members. In order to obtain the status of a family farm and more state assistance it is entitled to, the applicant must prove that his or her "household's business activity uses the labor of the members of that household family as defined in Art. 3 of the Family Code of Ukraine". Other individuals can be involved exclusively for seasonal work or the work that requires special skills and expertise, the law says.

The current legal framework provides a clear definition of who can qualify as the household: "partner, parents, grandparents, great-grandparents, grand- and great-grandchildren, stepparents and step-children, siblings and cousins, uncles and aunts, and nephews and nieces" of the family farm owner and his or her, as well as their next of kin.

This archaic patriarchic model does not take into account the fact that modern farming cannot develop without involving the necessary amount of hired labor. What can actually be competitive in today's Ukraine is capitalistic farming, i.e. the efficient small and medium family business of the size that will allow it to focus on success rather than permanent compliance with requirements to get state subsidies. A more traditional approach could be used in defining the criteria of family farms, whereby entities with less than 50 employers would quality as small and farms with more staff as mid-sized ones.

The existing family farms are poorly equipped. In 2015, 32,300 such farms had only 34.5 tractors, 19,340 seeding machines, 8,770 combine harvesters, and a number of other equipment.

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The government must create instruments to help the farming industry transfer from this distorted model based on the weak "family farming business" to the one that is built on adequately-sized competitive capitalistic farming businesses.

Meanwhile, most existing agricultural holdings are conglomerates comprised of separate businesses, several thousand hectares each, that often do not even share adjacent borders. In 2015, 1,345 biggest agricultural companies with over 3,000 hectares each were altogether processing only 7.3mn hectares out of the total 26.9mn ha of cropland, according to official statistics. The

average cropland processed by each was 5,430 ha. By contrast, the biggest share of the cropland that year was farmed by the 6,700 smaller businesses that worked on the plots of 500-3,000 ha each. They planted the total of 8.71mn ha in 2015 (an average 1,300 ha per entity).

A lot of them are part of big agricultural holdings today. The latter are comprised of dozens of such farms. In a proper environment, however, these farms would have all the potential to turn into mid-sized family agribusinesses and be no less effective than the current agriholdings.

By contrast, the farms with up to 100 hectares of cropland (26,700 in 2015) that are the foundation of the modern farming industry in Ukraine had only 836,000 hectares of cropland (an average of 31,300 ha each). This restricted their capacity to demonstrate high economic efficiency. However, this category embraces 82% of all farmers in Ukraine today. The few exceptions are the individuals involved in gardening or vegetable farming in the regions such as the Carpathians or Polissia, the area covered with extensive woods and swamps, where the terrain restricts farmland expansion. The rest of the current farming business hardly has any economic prospects without expanding farmland or reinforcing it with equipment and new technologies.

The Ukrainian agrisector may well have several dozen thousands of small farms, as it does now. But they should have the capacity to farm on hundreds and thousands of hectares each, based on their specialization and other circumstances.

The hired workforce in Ukraine's agribusiness counts nearly 400,000 employees (this number grew to 438,000 in July-September 2016, went down to 354,000 in the winter of 2017, then began to grow again). If most of them could be employed in the potential several dozen thousand farms, each business would have up to twenty hired employees, which would be perfectly in line with the criteria of a small business. The only exception could be the businesses that grow fruit, berries or other labor intense cultures.

BALANCING OUT THE STARTING POSITIONS

Farmers often oppose the introduction of the land market as they fear, for a good reason, that they will not be able to compete with agriholdings and foreigners in the current playing field, whether it is for buying or renting land. With loan interest rates at 20% and higher, small and medium businesses will have no chance to take one to buy land. The only ones who will be able to do so are the entities with their own funding available or those who can draw affordable capital from international financial markets. The task of the government is to change this. It should set up a special financial facility to lend to small and mid-sized farms at moderate interest rates for the sole purpose of buying land. This is widespread practice. Among other things, it will make sure that the loan money is not spent on any other purposes.

To begin with, the farmers would have to get millions of hectares of public land from the state under low-interest loans. Then the money that the farmers pay back, along with the funding from other sources, could be channeled into further purchase of private land plots from individual owners. The special facility could also go out the international capital markets and draw money there to further lend it to new farmers on good terms under state guarantee. A major share of Ukrainian agriproduce, ranging from 50% to 90%, is already sold abroad. That means that the revenues it generates are in nominated in foreign currency. This allows the agrisector to draw loans in foreign currency.

Another weakness that smaller farmers have compared to agriholdings is the domination of large produce traders who can dictate their terms to the SMEs that are virtually unprotected from economic pressure. As a result, a large share of benefits from the agribusiness goes to the traders, not the producers. The latter are forced to absorb the hits of price fluctuations on the global market while the revenues of traders are far less vulnerable to such fluctuations. The power of the agriholdings lies in that they often combine all these functions in one entity, being the producers, the owners of storage facilities and the traders that supply the product to the consumers.

AFTER THE COLLECTIVE FARMS WERE DISBANDED, THEIR LAND PLOTS WERE DISTRIBUTED TO MILLIONS OF PEASANTS SO THAT THEY COULD WORK ON THAT LAND AND EVOLVE INTO A NEW CLASS OF LANDOWNER FARMERS. FOR VARIOUS REASONS, MOST DID NOT

If the state policy focuses on incentives for small and medium farms in agriculture, this problem has two possible solutions. On one hand, national commodity exchanges should be set up for the export-oriented agricultural produce at least. These could shape market prices without abuse by large trader monopolies. On the other hand, companies could be set up (by the state or farmer associations with further sale of shares) to store, transport and sell the agriproduce to the end consumers. One way to do this is to support farming cooperatives (after some amendments in the relevant legislation) that would unite dozens or hundreds of producers and cover hundreds of thousands of hectares. This would allow them to compete with large agriholdings and monopoly traders both domestically and internationally.

With the proper state policy to support effective farm businesses sized up to several thousand hectares each, they could give a boost to the Ukrainian agricultural sector. This boost would be accompanied by the establishment of a powerful stratum of national small and medium agricultural business.

The Holy Grail

Roman Malko

Who wants a change of Ukraine's Constitution, and why

Ukraine needs new clear rules, a new social contract, a new Constitution and, overall, an overhaul of the statehood based on a new quality of relations between the citizens and their government. These ideas are repeated over and over again, and more frequently lately.

The 1996 Constitution is criticized as a product of a compromise between then elites, the old post-communist one and the new national democratic one, that no longer meets the demands of the time and society, and cannot ensure successful progress of the state despite the amendments made throughout these years.

For now, there are at least give projects of the new Constitution by various more and less known authors. One is by Ihor Yukhnovsky, one of the authors of the 1996 Constitution. This project was developed by a working group of at least two dozen experts. It proposes a two-chamber parliament with a Senate as the upper chamber and the National Council as the lower chamber. The Senate would have four permanent chambers: the seniors, the economy and planning chamber, the territories and self-governance chamber, and the Council of Experts as chamber of the future. The Senate would be in charge of conceiving the strategy of the nation's development, monitoring the actions of the president and government in implementing that strategy, exploring Ukraine's defense capability, the efficiency of its foreign policy, the qualification and the fitness of candidates for top positions. The National Council would be something similar to the current Verkhovna Rada: it would be in charge of the legislative activity along with the Senate, approve the Cabinet and pass the budget. The authors of the project believe that such a model would ensure political stability of Ukraine, eliminate uncertainty in the state-building processes domestically and internationally, and shape the system of checks and balances within the legislature.

Another projected designed by the Ukrainian Helsinki Human Rights Union at the end of Viktor Yushchenko's presidency. It also offers a two-chamber parliament with the Chamber of the Regions and the Chamber of Deputies. The Chamber of the Regions would represent the regions, while the Chamber of Deputies would be elected by the citizens through general elections. Following suit of the US Congress Senate, the Chamber of the Regions would approve the president's pick for the prime minister and Cabinet members, and judges of the Constitutional Court. The Cabinet would report to president directly, while local state administrations would report to it (as France's prefectures do) – they would have the powers to control local self-governments.

Apart from the finalized projects, a few more initiatives exist. One comes from the organization titled the People's Constitution, a Coalition of Civil Society. It is allegedly sponsored by Serhiy Liovochkin, Chief of Staff under Viktor Yanukovych's presidency, and oligarch Serhiy Taruta. Whether this initiative has produced any new document is unclear. But it has tried to secure a spot in the process for itself by passing the idea of setting up new agencies to amend the Constitution through Parliament. It offers a wide civic dialogue and the Constitutional Assembly to develop a new Constitution that would be put up on a general referendum. The VR barely supported the proposal at a second attempt and has been hanging there ever since.

Few parties or politicians refrain from an attempt to come up with Constitution-related initiatives. Yulia Tymoshenko says that the current Constitution needs to be changed because it gives people no effective instruments to change the government in Ukraine earlier than scheduled elections. She argues for an entirely new Constitution that will prioritize the interests of society and give people real tools of control over the government. She offers nothing more specific, other than to reload the clan-based power system, to eliminate the diarchy in power, and to hold a real rather than fake judiciary reform. Of course, she sees herself as part of the new team that will break and replace this clan-based power system.

Rumor has it that the Presidential Administration wouldn't mind amending the Constitution too, in order to help Petro Poroshenko stay in power. The alleged person in charge of this is Ihor Hryniv, one of the president's key spin doctors. The changes would have the president elected by parliament and some of his powers, such as the appointment of some ministers, chiefs of oblast state administrations or the National Bank of Ukraine, curbed in favor of the premier. Also, the president would be deprived of influence on parliament which would be reduced to 300 seats, while the threshold would go down from 5% to 3%. Also, the president would lose his power over the shaping of domestic and foreign policy. As a result, the premier would become the key figure in the country while the president would be a nominal figure. Yet, even now the premier cannot complain over the lack of powers which are far vaster than those of the president. The reason why the current President presses the Premier more frequently than the system allows for lies in the distortion of this system, not its design.

Whether such plan actually exists and whether President Poroshenko would agree to it is anyone's guess. For now, he hardly has any other ways to stay in power given his plummeted rating. A similar plan, with some difference in nuances, has already been put forward by Poroshenko's frenemy, ex-Premier Arseniy Yatseniuk.

In the end, it would do good to curb Poroshenko's powers. At this stage, however, it would probably be enough to simply put them to order. On one hand, he often takes it too far while his Administration tends to act identically to Leonid Kuchma's Administration whose chief of staff was Viktor Medvedchuk, the pro-Russian actor in Ukraine's politics. On the other hand, it makes no sense to compare Poroshenko to Kuchma, nor Yanukovych whose entourage was milking the country dry while their boss was lost in reflections at his fancy residence. Poroshenko's powers are far more limited than those of his two predecessors. And before one delves into the constitution-changing, it won't hurt to remember the details, as well as the end of similar experiments in the epoch of the late Kuchma and the early Yushchenko: the changes of 2004 were about the curbing of presidential powers. Both then, and now, similar changes are been lobbied for by Medvedchuk, a man whose daughter has Vladimir Putin as her godfather. He also promotes federalization and various other ideas recommended by the Kremlin. What was the result back then? The Orange Revolution, then the comeback of Yanukovych. By the way, Kuchma, too, had a dream to be elected in parliament.

THE 1996 CONSTITUTION IS CRITICIZED AS A PRODUCT OF A COMPROMISE BETWEEN THEN ELITES, THE OLD POST-COMMUNIST ONE AND THE NEW NATIONAL DEMOCRATIC ONE, THAT NO LONGER MEETS THE DEMANDS OF THE TIME AND SOCIETY

Another question is whether it makes sense to curb the powers of the Commander in Chief when the country is at war and needs a strong hand? Whether it makes sense to "overhaul" the state at this given moment in history? It would probably be more reasonable to defend and solidify it. The current Constitution serves that purpose very well.

For Ukraine to have a true breakthrough and its Constitution to actually work, the nation needs a clearly formulated position, a sense, a set of values defining a Ukrainocentric project. Once those are discussed, once the nation defines its fundamental values and decides whether Ukraine is a mere name of a territory, or whether there is more to its existence, all this can be laid out on paper. This will take time.

Pre-Constitutional changes

Andriy Holub

Although Ukraine formally only passed its Constitution five years into independence, significant changes to the Basic Law took place even before the Soviet Union went into collapse

A precedent of unity. Such was the accent of the June 28, 1996 speeches by VR Speaker Oleksandr Moroz and President Leonid Kuchma

Prior to 1996, Ukraine was already effectively living under a new Basic Law. Constitutional amendments in the 1990s and the further constitutional process are not as widely known as the events of the "constitutional marathon" that took place all night in the Rada on June 28, 1996. To remind our readers of these events, The Ukrainian Week turned to Viktor Shyshkin, who was an elected MP first in the Ukrainian SSR and then in independent Ukraine, from 1990-1994. Shyshkin was a member of the VR Committee on legislation and legal provisions, as it was called in soviet times and even deputy chair for a time. The texts of all constitutional amendments went through this committee, which prepared them for the legislature.

A SPLINTERING PARTY

At the end of the 1980s, despite perestroika, Ukraine was governed by the Ukrainian SSR Constitution of 1978 with all the accompanying implications, starting with the notion of "scientific communism" and ending with the primary role of the Communist Party of the Soviet Union (CPSU) and the fact that USSR legislation superseded the laws of the republics. In 1990, the first relatively democratic elections to Ukraine's soviet Verkhovna Rada took place. Although the majority was formed by MPs loyal to communism, called the 239 Group, opposition parties also gained substantive representation in the legislature and formed Narodniy Rukh or the People's Movement.

"That Rada was the first whose members were elected on an alternative basis," recalls Shyshkin. "A

significant number of anti-communist and anti-imperial MPs appeared in the opposition. These were mostly people from the national-democratic camp, especially Narodniy Rukh, although there was also a Democratic platform within the Communist Party and anti-communist but pro-imperial deputies as well. However, even the pro-imperial anti-communists were not prepared to break away from the existing format at that time, as they understood that the only main enemy was the Communist Party of the Soviet Union."

On July 16, 1990, the Verkhovna Rada issued its Declaration of State Sovereignty. This declaration announced to the world that Ukraine was independent in deciding any matters related to its existence as a state. It was about economic independence, the supremacy of Ukrainian law, its own Armed Forces and its own international relations. Still, the Declaration was not a law, let alone a Constitution, and the decision was made to give it added legitimacy by implementing changes to the soviet Constitution. "The Declaration of Sovereignty set the foundation for what later became amendments to the Constitution," says Shyshkin.

Work on the Constitution wrapped up by October 1990. There was no dedicated constitutional commission at the time, according to Shyshkin, and the drafting was done through individual VR commission, now called committees. For instance, the economic and cultural commissions focused on those issues that were their remit. There was also a Commission for Legislative Provisions, which generally handled the institutional aspect—the gap between the judiciary and prosecutorial systems and the general soviet judiciary. Only afterwards, these adjustments were brought into line with one another to prevent contradictions.

MOSCOW'S WANING SUPREMACY

"This was mostly state issues, given that, in those days, the state had supremacy over the individual and they had to determine how state institutions were to work going forward," says Shyshkin "All the propositions came to our Commission for Legislative Provisions and we were responsible for changes to the Constitution as a state document." The number and scale of the changes to the Ukrainian SSR Constitution are similar to the adoption of the new Basic Law. They were voted on in the Rada on October 24, 1990. The irony was that the amendments took effect on November 7, October Revolution Day, the main state holiday in the USSR.

"In effect, Ukraine had declared independence undercover," explains Shyshkin. "Because all of the republic's institutions had become independent of Moscow and the Party's managing role was null and void, although it was still in the Soviet Constitution."

In addition, Art. 7 had been changed in October, with the provision on unions rewritten as an article on community organizations and a multi-party system. The section on the economic system, which designated the Ukrainian SSR economy as part of the overall soviet economy, was removed completely. One of the articles established the dominance of Ukrainian SSR laws on the territory of Ukraine and that soviet laws continued to be in effect in Ukraine only where they did not conflict with Ukrainian laws. It was now prohibited to send Ukrainian draftees to serve beyond the Ukrainian SSR. Finally, the Ukrainian Supreme Court became the highest court in the land and no longer sent cases to Moscow for review. Instead of a Constitutional Oversight Committee, the Rada announced that a Constitutional Court would be set up.

Shyshkin also points out that many changes were made to the prosecutorial system. "The Prosecutor's Office was the only institution whose top officials were appointed directly from Moscow," he explains. "We're talking not even about approval, as it was with other agencies, but the actual selection and appointment. All the other top positions were appointed in Kyiv. Instead, the regional prosecutors of all the soviet republics and oblasts were appointed by the Prosecutor General of the USSR, and those prosecutors appointed all the local prosecutors, with the approval of the soviet PGO. The Prosecutor's offices and the Defense Ministry, because there was no equivalent ministry at the republic level, were the two main pillars on which the empire stood. So we established the office of the Prosecutor General of the Ukrainian SSR, who was appointed by the Ukrainian legislature. So, on October 24, 1990, we became a constitutionally independent nation."

In order for these changes to pass, the Rada needed to muster 300 votes, just like today. What helped back then was that the Communist Party of the Soviet Union was no longer a monolith but splintered along many lines: The communists included conservatives, like the ones who attempted the August putsch in 1991, and progressives, who either joined the People's Council from the Democratic platform of the CPSU or simply supported the evolution of society, according to Shyshkin.

IN 1990, THE UKRAINIAN SSR WAS TURNING INTO A REAL, NOT JUST A NOMINAL PARLIAMENTARY REPUBLIC, AS BEFORE. THE VERKHOVNA RADA NOW APPOINTED THE GOVERNMENT, JUDGES AND THE PROSECUTOR GENERAL

There was also a group of communists whom I would call 'disciplined,'" he explains. "The concept of a state based on the rule of law first appeared in the CPSU's Party documents during the 19th Congress. There, it was announced that the Soviet Union was transforming into a rule-of-law society. And so more Party documents appeared that were oriented towards this shift. Human rights became an important factor. In the 1978 Soviet Constitution, the word 'person' does not even appear, only the word 'citizen,' and so 'human rights' were presented only as 'citizen rights.' And yet human rights began to dominate when it came to making a rule-of-law state. That's why the part of communists who were disciplined about enforcing Party documents was also in favor of change. They did not support the idea of a nation state, but they supported changes to the human rights aspect. Without them, we would never have been able to eliminate Art. 6." That was the Article that established the top role of the CPSU.

THE RISE OF THE PRESIDENCY

In 1990, the Ukrainian SSR was turning into a real, not just a nominal parliamentary republic, as before. The Verkhovna Rada now appointed the Government, judges and the Prosecutor General. The question of establishing a presidency had not been raised yet, but

immediately came up in 1991, just before the final declaration of independence.

"At that time, the sense was that a parliamentary republic would not be good," says Shyshkin. "As an example, they took the experience of France's Fourth Republic, which was parliamentary, and proved ineffectual after WWII, then the French economy was in collapse and its colonial system still in place. The argument was that, at a time of major social and political upheaval, the country needed a strong, concentrated government. This was the foreign policy factor that made this concept dominate. In addition, its supporters believed that progressive democratic forces might gain the presidency.

"The thing was that Donetsk and Luhansk Oblasts were still voting for communists to the Rada almost exclusively," Shyshkin explains. "By contrast, three of the 11 MPs from Kirovohrad Oblast were already members of the People's Council, and two more favored it. The belief was that it would be difficult to overcome the aftermath of the soviet era through the legislature, whereas with a presidential form of government it would be doable. An authoritarian presidency was expected to work in favor of statehood.

"What's more, this position was favored by Viacheslav Chornovil and a significant number of Rukh members, the Republicans and the Party of Democratic Revival of Ukraine[1], to which I belonged," Shyshkin recalls. "I wasn't enamored with the idea and I pointed out that there were some risks. I wasn't really a fan of a presidential republic in the way that it formed in Ukraine, just like I'm not a fan of the French model with its very powerful president. At the time, there were serious arguments in favor of a centralized government, as a temporary measure until Ukraine reached sustainable growth. The pro-imperial communists were against the idea of a president because they saw this as leading to the final collapse of the USSR, arguing that a single state could not have several presidents. There can be different structures, but not presidents."

SHIFTING POWERS

In July 1991, the Verkhovna Rada voted to establish the post of president. The powers of the president that were bestowed on Leonid Kravchuk were narrower than those that were soon to be granted to Leonid Kuchma. For one thing, Ukraine's first president did not nominate the Prosecutor or judges, and he needed the approval of the legislature not just to appoint a premier, but for a slew of key ministries. At the same time, says Viktor Shyshkin, it's difficult to compare the powers of the different presidents: "You might say that the powers of the president in 1991 were somewhere between those in 1996 and 2004. In reality, it's very hard to judge who of the presidents was actually weaker or stronger, Kravchuk, Kuchma or Yushchenko. They served in different legal and socio-political environments.

"During Kravchuk's presidency, the Soviet Union fell apart and he had to build a state and its institutions, and to build relations with other countries," he continues. "It really was the birth of a nation that subsequent presidents inherited. This is what was particular in 1990-1991. On a strictly legislative level, it's impossible to compare them, because even the country's laws reflected different social relations."

The powers of Ukraine's Head of State were significantly expanded already in 1995, with the signing of the "Constitutional Agreement between the Verkhovna Rada and the President." This was part of the gradual shaping of the future Constitution of Ukraine. There were constant discussions about the way the country should be governed, the powers of the president, the economy, the foreign policy vector, and nuclear status—all of which had to be covered in the new Constitution. Added to that was the status of Crimea that was reflected in the Basic Law. In 1994, a new Verkhovna Rada was elected, but once again, no version of the draft Constitution made it even through the Constitutional Commission itself. At this point, the suggestion was made to have a temporary Constitutional Agreement that would clearly establish the powers of the legislative and executive branches of power.

"I think that this is how we undermined the foundation of Ukrainian law," says Shyshkin. "You can't abuse the Constitution, no matter what the reasons. Some say that this was the only way out of a dead end. I don't see that. The same governing structures remained in place, but someone was simply given more powers.

"There's another point here," adds Shyshkin. "Today, many Ukrainians talk about a social contract. But who's supposed to agree to it with whom? It seems that there are disagreements even about this. We now have three possible approaches. The first one is that people agree among themselves about authorities, powers and so on. Typically this is done through a referendum. Second, the government agrees with the people. All our Constitutions have been based on this kind of an agreement: the government gave us a Constitution and the people agreed to it. The government has the right to do this as it is elected by the people and represents them.

"The third option is that those in power agree among themselves, Shyshkin concludes. "This is the worst scenario: the people don't even count. The legislature negotiates with the president who they are going to divvy up something. That's what the "Constitutional Agreement" was about and that's why I'm dead against it. If we talk about a party to the agreement, such as the President and the Rada, then it's obvious that the Rada has a lot more to lose from such an agreement."

[1] The PDRU had been formed by the DemPlatform members in the CPSU.

How the Constitution was changed*

1990
The Constitution of the Ukrainian SSR is amended. Ukraine de facto becomes an independent parliamentary republic.

1991
The post of President of Ukraine is established.

1995
A "Constitutional Agreement" divides powers between the President and the Verkhovna Rada, Ukraine's legislature.

1996
The Constitution of Ukraine is passed. The President's powers are expanded from what they were in 1991.

THE RITE OF PASSAGE

In the end, a new Constitution was passed, exactly one year later, and the Agreement expired. Of course, the new Basic Law reflected the greater powers granted to President Kuchma that were eventually taken back by Viktor Yanukovych through the Constitutional Court.

"The Constitution enshrined the powers granted to the president in 1995," says Shyshkin. "It was a compromise that lawmakers agreed to in order to get the necessary two-thirds vote: 300. And it most certainly was a compromise Constitution. Even a genius like Leonardo da Vinci couldn't be expected to build a propeller like the one in his drawings because society simply wasn't ready for it. The 1996 Constitution was a product of its times and I would call it a positive event. The question of language was a compromise; the issues of land, property and Crimea were all compromises.

"To some extent it was less 'pro-presidential' than the Constitutional Agreement," notes Shyshkin. "Take the High Council of Justice. It had not been part of the Constitutional Agreement because the concept only emerged in the spring of 1996. The president is supposed to chair this Council, because it was based on the French model, where the president nominally chairs it although he doesn't necessarily attend its sessions. The plan was that the Council would include 21 members, with the president at the head. This is the kind of thing I'm talking about. The Constitution was voted on article by article, and even sentence by sentence. During the debate of Art. 131, the president was removed and the Council was established with 20 members. Then the point was made that 20 was not divisible by 3, although different organizations contributed 3 members each. Then they voted for the PGO to contribute only two members. This was the kind of incident that reflected relations between the legislature and the president at the time: far from ideal and, unlike the current Rada, the 1996 Rada often challenged him."

If not for the squabbles and disagreements in the Rada, the Constitution might have passed much earlier, says Shyshkin. Back in 1993, an official version was published in the press. There were other versions, too, whose general features were similar. "The communists, of course, did not have the office of the president," Shyshkin goes on. "Their version was along the lines of 'all power to the soviets [councils]' and granted different status to the Russian language. Still, in terms of their constructive approach to the state itself, all versions were similar." When the official draft Constitution was being drawn up, several thousand propositions, additions, changes and challenges were submitted.

But what is not true is the myth that the Constitution was approved in a single night on June 28. "The Constitutional Commission, which had been set up again after the 1994 VR election, found itself in a stalemate and Vadym Hetman took the bull by the horns," Shyshkin recalls. "Among the liberals, who at that point were in the majority, he was very highly regarded. Hetman announced that he was taking upon himself responsibility for setting up a working group to draft a final version of the Constitution. In this particular instance, the Speaker, Socialist Party leader Oleksandr Moroz, supported him. The group included representatives of all the factions and consultants, one of whom was me. By the end of May, if I remember correctly, we published the draft that went on to become the new Constitution.

"What's more, we had been getting approval for bits and pieces of the previous two weeks as well," says Shyshkin. "When they say that the Constitution was passed in a single night, it's simply not true. Prior to that night, 40 articles had been approved over two weeks. Of course, these weren't the most controversial articles, such as the provisions on the status of Crimea, the issue of ownership, and the language issue. Nevertheless, we managed to approve one quarter of the 161 articles in Ukraine's Basic Law. The voting came for not just every article, but for sections, paragraphs and even sentences. If a sentence raised questions, then there might even be a vote over specific words. By June 28, mostly the articles on human rights and the electoral system had been approved. That night did, indeed, involve a kind of psychological breakthrough. As chair off the Temporary Special Commission Mykhailo Syrota took responsibility for the Rada on himself, declaring that he would be reporting 'until the rooster crows.'"

UKRAINE'S FIRST PRESIDENT DID NOT NOMINATE THE PROSECUTOR OR JUDGES, AND HE NEEDED THE APPROVAL OF THE LEGISLATURE NOT JUST TO APPOINT A PREMIER, BUT FOR A SLEW OF KEY MINISTRIES

Since the Constitution was passed, Ukraine's Basic Law has been amended five times, the first time coming 8 years later, during the Orange Revolution, in December 2004. Unfortunately, it's hard to call the process of amending the Constitution transparent or consistent: many of them have taken place in emergency mode. As a result, the Constitutional Court declared the 2004 amendments null and void when Yanukovych came to office, giving him the expanded powers of the Kuchma years. After he fled in 2014, the Rada quickly reversed the Court's decision and brought the 2004 provisions into force again. But there are no guarantees that these amendments will not again be declared unconstitutional at some point.

2004

The first amendment to the Constitution of Ukraine. The powers of the President are restricted and Ukraine becomes a parliamentary-presidential republic.

2010

The Constitutional Court declares the 2004 amendments of the Constitution null and void. Ukraine returns to the original, 1996 version of the Constitution.

2014

After Viktor Yanukovych flees Ukraine, the Rada restores the provisions of the 2004 version of the Constitution.

2016

The first amendments to the Constitution are passed that involve the judiciary branch of power.

*** This list of changes is not complete, reflecting only the most significant changes to the Basic Law of the Ukrainian SSR and of Ukraine that affected the powers of those in office.**

A new kind of sport

Stanislav Kozliuk

Just about everyone in Ukraine is battling corruption today: all the law enforcement agencies together with the activists, officials and MPs. Sometimes, though, such a large number of anti-corruption folks can get in the way

Not too many people will argue against the statement that "Corruption is going on at all levels in Ukraine." Time and again, news tickers buzz with breaking announcements that yet another bribester has been caught red-handed. Less often comes news that schemes for making money on the side at state enterprises have been uncovered. More rarely yet, come news bulletins that a money-laundering conversion center has been shut down. Hardly a day goes by without news of the latest thieving official trying to make extra money illegally. Even the president once addressed the Verkhovna Rada with a warning that the battle with corruption was the country's most difficult challenge.

And, in typical Ukrainian fashion, the entire political elite joined the fray. And so, according to official data, law enforcement agencies launched nearly 9,500 cases involving corruption in the first five months of 2017, for crimes that included: misuse of budget funds, fraud, overstepping authority, bribery, and more. During this same period, the court system received over 2,200 new cases. And in the 7,000 cases that judges examined between January and May, not one ended up being ruled in favor of the prosecution.

So, who, in fact, is fighting corruption in Ukraine?

If numbers can be trusted, the National Police have managed to nab the largest number of corrupt individuals: since the beginning of 2017, they have filed 7,400 cases based on evidence of a variety of crimes. Typically, the police arrest those taking bribes from among their own officers, low-ranked government officials, prosecutors and so on. Most of the crimes are connected to taking bribes ranging from a few hundred to thousands of US dollars. In addition to this, the National Police adopted an anti-corruption program whose main aims are to prevent and counter corruption in their own ranks, and to assess corruption risks.

The most publicized operation was probably the shocking searches of oblast offices of the one-time Ministry of Revenues and Fees, which were carried out jointly with the Prosecutor General's Office, which is also keen to report on its battle with corrupt officials. According to PGO data, prosecutorial agencies launched 1,800 corruption cases in the first five months of 2017. In addition to overstepping authority, these included taking possession of weapons or special equipment through fraud, abuse of position, and so on. PGO spokesperson Larysa Sarhan sometimes even refers to the "bribester of the day" in social networks. News disseminated by the agency is dominated by notices that budget funds have been embezzled, taxes have been evaded, and so on. The amounts involved range from a few thousand to tens of thousands of dollars.

In the meantime, the Security Bureau of Ukraine (SBU) is also busy fighting corruption. It sometimes reports about arresting a variety of corrupt individuals among service personnel, police officers, border guards, officials and so on. Still, with only a few dozen cases to its credit since the beginning of the year, the SBU has not actually achieved that much in this area so far.

The National Anti-Corruption Bureau of Ukraine (NABU), which was set up in the spring of 2015, also hasn't much to show for itself, number-wise. Its main purpose is to counter corruption among higher officials. It is also responsible for checking on integrity. At this point, the Bureau's detectives have already arrested possibly the biggest fish in the corruption pond in the history of the country: Roman Nasirov, the former head of the State Fiscal Service; former MP Mykola Martynenko, MP Oleksandr Olyshchenko with his natural gas schemes, and so on. Working together with NABU is the Specialized Anti-Corruption Prosecutor's Office (SAPO), which does not have investigative functions but oversees the work of the Bureau. SAPO was set up in September 2015 as part of the PGO, but it considers itself independent of the higher entity.

Law enforcement agencies launched nearly **9,500** cases involving corruption in the first five months of 2017, for crimes that included: misuse of budget funds, fraud, overstepping authority, bribery, and more

In terms of investigating corruption among ministers, judges, the premier or president, there should have been an entity such as a State Bureau of Investigation, but it has not yet been set up. Even the competition for the posts of Bureau chief and deputies has remained dragged on for nearly a year now. Given the amount of work necessary to appoint staff to the agency's regional offices, this process doesn't look to end any time soon... According to the Criminal Procedural Code, the SBI must be established by November 20, 2017, but it's clear that it is already way off schedule.

Still, other than law enforcement agencies, Ukraine's civil society is also engaged in the battle against corruption. One example is the Anti-Corruption Action Center (AntAC), run by Vitaliy Shabunin. The Center tracks procurements at all levels, writes about "political" corruption such as attempts to legally restrict the powers of newly-established anti-corruption agencies, reports on amendments to

Arrest and trial? The current law allows bribesters to be released on bail as an alternative to arrest, thus making it possible for suspects to flee

legislation, and investigates fraudulent schemes. Meanwhile, investigative journalists from various projects have also joined the ranks of those battling corruption and systematically and regularly publish materials dedicated to the latest schemes involving cashing in on public money.

Right now, combating corruption seems to have become a trend at contemporary state agencies and politicians behind them. As part of this "anti-corruption trend," we have seen the story of appointing auditors to audit NABU. In short, the Verkhovna Rada was trying to promote some fairly dubious representatives to this position, which suggests that it really wanted to influence NABU's work, if not actually take control of it. At the same time, just about every high-profile arrest turns into an excuse for some free PR or anti-PR for various politicians. For instance, the arrest of Nasirov, which was related to the Onyshchenko gas affair, made it possible for NBU and SAPO to remind everyone of their existence. That the public supports NABU is obvious from the hundreds of activists who blocked Nasirov in the courtroom. Certainly this also offered an opportunity to earn political dividends. For instance, members of the Movement of New Forces party were seen in the crowd, a party set up by Mikheil Saakashvili, and they tried in vain to take on the "coordination" of the blocking. Yet Nasirov himself wiped out all the achievements of the law enforcement agencies—or, perhaps more accurately, his wife did when she brought the bail money and he was set free.

The PGO and Ministry of Internal Affairs figured prominently in high-profile corruption cases as well. For instance, at the end of May, the National Police and the Military Prosecutor carried out a massive search operation in the administrations of the former Ministry of Revenues and Fees. The statistics were impressive: 454 searches in 15 oblasts, 23 prosecutors arrested and airlifted by helicopter to the Pechersk District Court in Kyiv, although infamous for the backpedalling of high-profile cases and controversial verdicts in the past. The judge released seven of them on bail, another four on personal recognizance, and the remaining 12 arrested but given the right to also pay bail. The country's top cop, Arsen Avakov, himself reported on his page in a social network about the achievements of the police: how many were arrested, the total value of the bail bonds, the personal valuables of the arrested that had been seized, and so on. However, unless the court system also does its job, this kind of "report" comes across as little more than self-promotion.

To prevent this kind of situation during the course of judicial reform, anti-corruption courts were supposed to be set up precisely to handle this kind of crime. According to the IMF memorandum from early April, the Verkhovna Rada was supposed to adopt legislation on the anti-corruption courts by mid-June, and the courts themselves were supposed to start working by the end of March 2018. The bill still has not been passed, despite the tight timeframe. What's more, after the accused bribesters were released on bail, talk once again began about amending the Criminal Procedural Code to make it impossible for suspects to flee.

"You have to understand that the CPC is far stricter about financial crimes than about most other types of criminal activities," explains one prosecutor. "Your case can collapse simply because the bills the corrupt individual was supposed to take were marked the wrong way. That's even without talking about bail as an option for the big fish."

And, of course, the CPC hasn't been amended. Moreover, the latest initiatives of the Administration in relation to e-declarations give even more cause for concern. So far, the Rada has amended Bill №6172 "On amending Art. 3 of the Law of Ukraine 'On preventing corruption.'" These changes have expanded the group of individuals who are obliged to file such declarations to include those authorized to carry out state functions or functions at the local level, manages and members of anti-corruption CSOs, and all their subcontractors. For a number of objective reasons, this creates a serious problem, not just for anti-corruption activists, but also for investigative journalists who work through CSOs. Media experts began to describe these changes as an attempt to "put the screws" to anti-corruption activists who were "getting in the way."

But amendments to the CPC that directly affect NABU are even more dangerous. Two of them are described as "protecting business," but in reality they curtail the powers of anti-corruption law enforcement agencies by subordinating them to the PGO. One prohibits law enforcement officials, including NABU itself, to investigate a criminal case if that same case was opened and shut based on the same circumstances by another law enforcement agency. The other obligates law enforcement agencies, including NABU, to close a case if it was closed previously based on the same facts. In short, for most of today's officials and MPs, the battle against corruption is clearly not serious but simply a trend, something that they want to add to their resumes. Ultimately, just a new form of sport where participating is more important than actually winning.

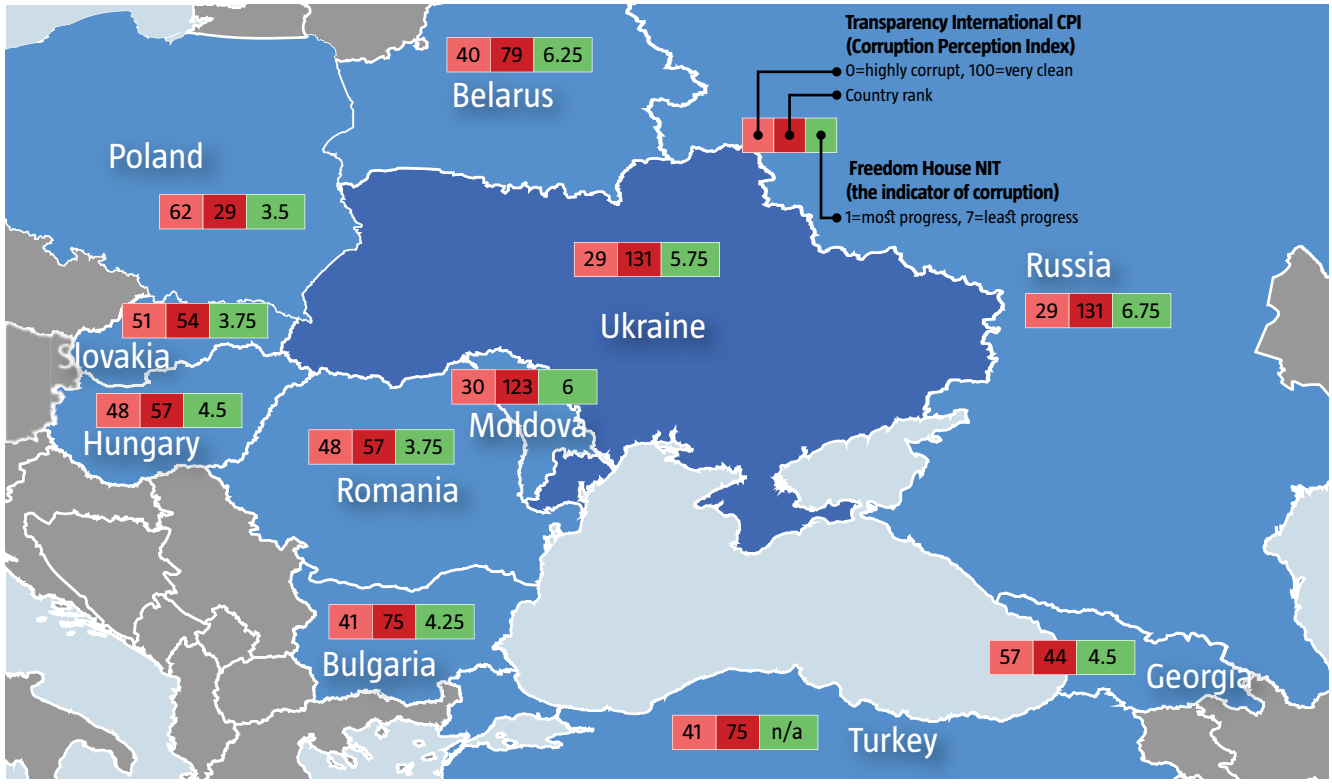
See next page for more stats on the topic

Numerical anti-corruption

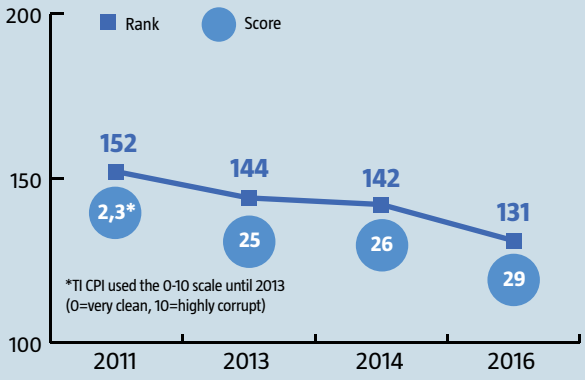
The Ukrainian Week analyses the fight against corruption in Ukraine as presented in international rankings and reports of domestic law enforcement authorities

Andriy Holub

Ukraine in its neighborhood

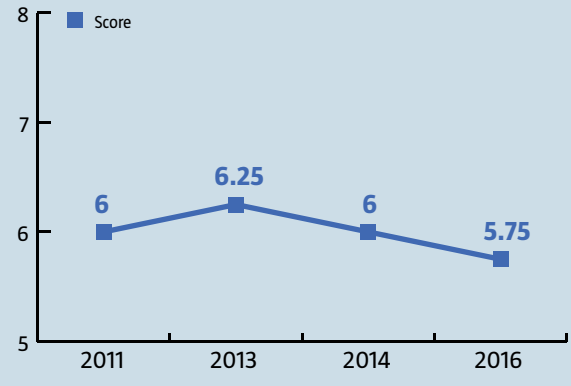


Ukraine in Transparency International CPI by years



"The World Justice Project Rule of Law Index survey gave Ukraine most of the points, which is taken into account in forming the CPI. The rate of our country increased of ten points in comparison with previous years. This is connected with the reduced abuse of office in the government (the rate has improved by 14%), in police and armed forces (the rate has improved by 6%), but the situation remained the same as under the Yanukovych regime in the judicial branch of power. The World Competitiveness Yearbook survey indicates this very problem that gave Ukraine three additional points." TI-Ukraine press-release

Ukraine in Freedom House NIT by years (corruption)



"Corruption rating improved from 6.00 to 5.75 due to the creation of the new national anticorruption agencies and the beginning of their operation, public procurement reform implemented with essential anticorruption implications, introduction and publishing of the first e-declarations for public officials, the beginning of political party finance reform, energy tariff reform, and the initiation of reform of the management of state-owned enterprises." Freedom House website

Criminal Code

Crimes of corruption as defined in 19 articles

Crimes	Articles
Against property	191
In commercial activities	210
Against public safety	262
Involving trafficking in drugs	308, 312, 313, 320
Undermining the authority of government agencies and public associations	354, 357
Involving official duties in providing public services	364, 364-1, 365-2, 368, 368-2, 368-3, 368-4, 369, 369-2
Military crimes	410

Statistics from studies of crimes involving corruption

	Number of cases		Suspect declared		Indicted in court		No decision made	
National Police								
Article	2017 (January-May)	2016 (January-May)	2017 (January-May)	2016 (January-May)	2017 (January-May)	2016 (January-May)	2017 (January-May)	2016 (January-May)
Art. 191 "Appropriation, embezzlement or seizure of property through abuse of office."	4,416	4,091	2,102	1,555	1,529	1,171	2,702	2,775
Art. 210 "Misuse of budget funds, spending budgets or providing loans from budgets without the necessary budget allocations or in excess of such allocations."	14	7	1	0	1	0	13	7
Art. 262 "Theft, appropriation or extortion of firearms, ammunition, explosive materials, or gaining access to them through fraud or the abuse of office."	45	61	8	7	5	4	40	57
Arts. 308, 312, 313, 320 "Violations of the rules governing the circulation of narcotic substances, their preparation or possession through fraud or abuse of office."	139	151	66	45	51	32	87	113
Arts. 354, 357 "Bribing employees of a company, institution or organization, or the theft or extortion of seals, stamps or documents, or gaining access to them through fraud or abuse of office."	866	1,437	311	284	270	250	584	1,176
Arts. 364, 364-1, 365-2, 368, 368-2, 368-3, 368-4, 369, 369-2 "Abuse of office connected to overstepping authority, bribery, illegal enrichment, and buying people off."	1,931	1,946	290	218	186	144	1,739	1,793
Prosecutorial agencies								
Article								
Arts. 364, 364-1, 365-2, 368, 368-2, 368-3, 368-4, 369, 369-2 "Abuse of office connected to overstepping authority, bribery, illegal enrichment, and buying people off."	1,703	1,350	311	296	159	160	1,538	1,182
Art. 410 "Theft, appropriation or extortion by military service personnel of weapons, ammunition, explosives or other military substances, transport, military and special equipmentor other military property, or acquiring them through fraud or abuse of position."	157	125	23	18	20	15	137	108
Security agencies								
Article								
Art. 364 "abuse of authority or of office."	27	11	0	1	0	0	27	11
NABU*								
Article								
Art. 191 "Appropriation, embezzlement or seizure of property through abuse of office."	24	70	0	33	0	3	24	NA.
Art. 210 "Misuse of budget funds, spending budgets or providing loans from budgets without the necessary budget allocations or in excess of such allocations."	1	0	0	0	0	0	1	NA
Arts. 354 "Bribing employees of a company, institution or organization."	1	0	0	0	0	0	1	NA
Arts. 364, 364-1, 365-2, 368, 368-2, 368-3, 368-4, 369, 369-2 "Abuse of office connected to overstepping authority, bribery, illegal enrichment, and buying people off."	147	132	11	52	3	29	144	NA

*Data by July 2016

No transit, no cry

Oleksandr Kramar

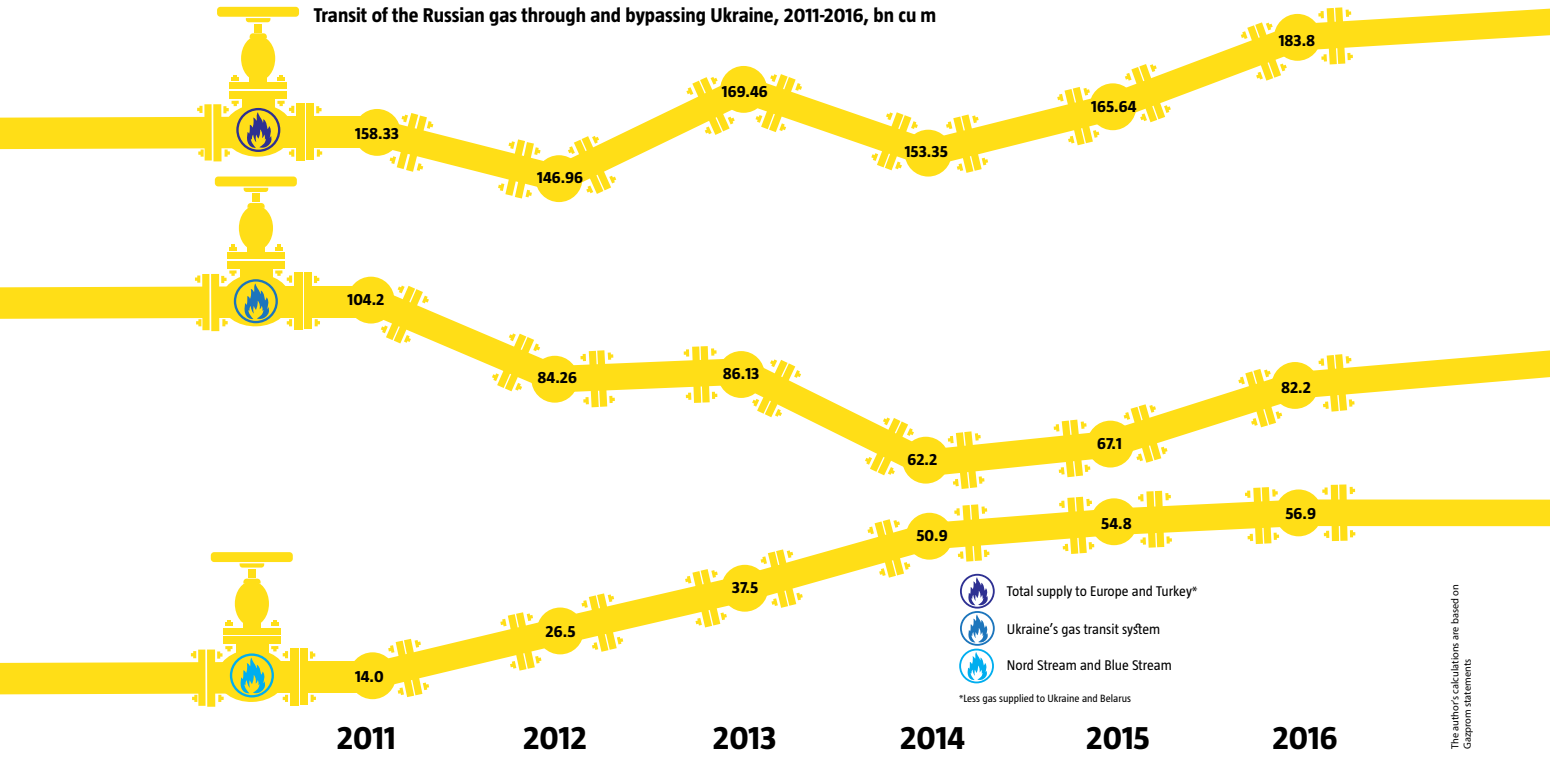
The threats and opportunities brought by Gazprom's probable termination of gas transit through Ukraine after 2019

While Ukraine is discussing how real or imaginary the victory in the Stockholm arbitration court of Naftogaz vs Gazprom is, one question becomes more and more relevant: what will happen in 2020 when the transportation of Russian gas through the Ukrainian gas transit system (GTS) is stopped or reduced to a minimum? The existing transit contracts, the subject of the ongoing dispute between Ukraine's Naftogaz and Russia's Gazprom in Stockholm, end in 2019. Which is not too far from now. Meanwhile, Gazprom CEO Alexey Miller said in an interview with Reuters on April 25, 2017 that his company does not rule out maintaining certain transit volumes through Ukraine after 2019, but they will be limited to a level of around 15 billion m³. The current amount is 80-85 billion m³. The remaining deliveries will be exclusively for the needs of countries bordering with Ukraine. The chances of these plans succeeding are very high. Despite numerous obstacles, the systematic and persistent work of Russian lobbyists to push alternative energy supply projects in EU countries yields results. While it may be possible to put the brakes on Gazprom's intentions for a few years, stopping them completely is unlikely.

Therefore, Ukraine should focus primarily on asymmetric countermeasures. So that when Russia finally makes its plans reality and has the technical ability to transit the bulk of or all current gas to the EU bypassing Ukraine's GTS, we will be ready and able to minimise potential threats. At least two are looming. Firstly, it will become more complicated to purchase gas from European suppliers and the price will increase significantly. Unless action is not taken, Ukraine will have to transport the fuel from distant European hubs following the termination or minimisation of gas transit through its GTS instead of buying Russian gas on Ukraine's western borders after its transfer to European companies, as is the case now. Secondly, transit revenues will be lost and it will be more expensive to transport fuel for domestic consumers using the Ukrainian GTS, as they will have to pay most or all of its operation costs. As a result, industrial production may become even less competitive compared to other countries in the region, in addition to higher gas cost for domestic consumers.

SLOWLY BUT SURELY

Despite the scepticism and resistance to the Nord Stream pipeline, which runs under the Baltic Sea directly from Russia to Germany with a capacity of 55



billion m³, it was finally built in 2011. Albeit with significant delays (contrary to initial expectations), it is now working at almost full capacity. Slowly but surely, Gazprom is pushing for Nord Stream-2 and a number of pipelines in the EU that would ensure the supply of natural gas from the two Nord Streams to various European countries. In order to bypass the obstacles presented by EU regulators, Nord Stream 2 AG and European energy companies ENGIE, OMV, Royal Dutch Shell, Uniper and Wintershall signed a financing agreement on April 24, 2017: these five companies have committed to providing long-term funding amounting to 50% of the total project cost (estimated at €9.5 billion), while Gazprom will remain the sole shareholder of Nord Stream 2 AG. It is planned that pipeline construction will begin in 2018 and be completed by the end of 2019.

Despite the failure of South Stream, which was designed to cross the Black Sea from Russia to Bulgaria and further into the EU in order to deprive Ukraine of Russian gas transit to the Balkans and Italy, Moscow was able to come to an agreement with Turkey. Regardless of the aggravation of Russian–Turkish relations in 2015 due to Syria and the Russian aircraft shot down by the Turkish Air Force, Ankara issued the first building permits for a comparable pipeline, the Turkish Stream, in September 2016. Its bilateral implementation agreement came into force in February 2017, while the company South Stream Transport B.V., originally established for the construction of South Stream, concluded a contract with Allseas Group for the construction of a second line. By early May, work had already begun on the underwater part of the pipeline. Currently, this means there will be two lines with a capacity of 15.75 billion m³ each, one completely dedicated to further transit through the European part of Turkey to the EU (the Balkans and Italy).

Actual construction of the underwater part of Turkish Stream started in May 2017. Alexey Miller has stated that that "the project is being delivered strictly according to plan and by the end of 2019 our Turkish and European consumers will have a reliable new route for importing Russian gas". This is a very realistic timeframe given previous pipeline experiences. Blue Stream, the first pipeline in the Black Sea from Russia to Turkey designed to bypass Ukraine, through which all Russian gas has been transported to this country until now, was built fifteen years ago. Construction of its offshore section with a capacity of 16 billion m³ lasted less than a year – from September 2001 to May 2002. Commercial supplies started another six months later in February 2003.

EARLY PREPARATIONS

However, there is more to it than the construction of the main pipelines. Gazprom is actively working towards creating pipeline infrastructure to distribute their fuel to as many consumers as possible who now receive it in transit through Ukraine, particularly in Central Europe. Gazprom booked new capacity at auction in March for extra supplies that are supposed to come through Nord Stream 2 to Germany (58 billion m³ per year at the point of entry), the Czech Republic (around 45 billion m³) and Slovakia for the period from October 1, 2019 to 2039. To this end, preparations are being made for the construction of other transport networks: the EUGAL pipeline to move additional amounts of gas from the north of Germany to the south and the Czech border (planned capacity of up to 51 billion m³ per year) and the expansion of gas transmission systems in the Czech Republic and Slovakia. In April 2017, Wintershall board member Thilo Wieland said that the construction of EUGAL will start in mid-2018 and that gas will start to flow through its first branch by the end of 2019: orders for building materials have already been made and the tender for the works is proceeding at "full speed".

The existing OPAL pipeline with a capacity of 36 billion m³ that connects the first Nord Stream to Germany and the Czech Republic (EUGAL is supposed to run parallel to it) has already demonstrated how threatening such projects are for the Ukrainian GTS. They open access that bypasses Ukraine to key EU markets for our transit. At the end of October 2016, when the European Commission relaxed restrictions and for a short time approved an increase from 50% to 80% in the capacity that Gazprom could fill with Russian gas from Nord Stream, it caused an immediate and sharp decline in fuel transportation through Ukraine's GTS. In December, Naftogaz was forced to sound the alarm, because the use of the Nord Stream–OPAL route increased from 57.1 million m³ to 80.5 million m³ per day, while the volume of gas transportation through the Ukrainian GTS towards Slovakia decreased from 148.9 million m³ to 120.8 million m³. The European Commission's approval was later overturned in court. However, the planned construction of EUGAL with "spare" capacity can take away the lion's share of Ukraine's transit, even if Gazprom only fills it to the 50% allowed by European legislation.

THE FIRST STRATEGY FOR RESPONDING TO THE THREAT THAT GAZPROM WILL STOP FUEL TRANSIT TO THE EU VIA UKRAINE SHOULD BE THE REDUCTION — AND IDEALLY ELIMINATION — OF THE NEED TO PURCHASE IT BY THE EARLY 2020S

The situation is similar in the South. If completed, Turkish Stream will enter Turkey in its extreme western, European part, the location of a section of the Trans-Balkan Pipeline that until now transported Russian gas transited through Ukraine to Turkey and the Balkans. In this way, Gazprom could easily transfer its supplies not only to Turkey (11.6 billion m³ in 2016), but also to Greece and Bulgaria away from the Ukrainian GTS. Combined, this is about another 6 billion m³. Furthermore, Gazprom signed a cooperation agreement with European companies Edison and DEPA on June 2, 2017 that envisages the joint organisation of a southern route to supply Russian gas to Europe through Turkey, Greece and then Italy via the Poseidon pipeline. Elio Ruggeri, Vice-President for Gas Infrastructure at Edison, announced earlier this year that the likely project completion date will be before 2022.

In early 2017, Gazprom Deputy Chief Executive Alexander Medvedev said that the company is also willing to consider using the Trans-Adriatic Pipeline

(TAP) to supply Italy with Russian gas. Construction started in May 2016 and is currently 40% complete, due to be finished by 2019. TAP, which was originally planned for transporting natural gas from Azerbaijan and other countries in the Caspian Sea region and Middle East to Europe, was supported by the European Union for the purpose of diversifying fuel sources, but could now facilitate the implementation of Gazprom's plans. On the basis of the same EU energy legislation, the Russian monopolist can bid for 50% of TAP capacity (which is planned at 10 billion m³ with a potential expansion to 20 billion m³). Therefore, from 2020, when the Turkish Stream has a high chance of being completed and the current contract for the transit of Russian gas through the Ukrainian GTS comes to an end, much of the natural gas consumed by Italy could be transported through the TAP.

CHANGES IN CONSUMPTION

Russia's move away from gas transit through Ukraine after 2019 could be made easier by significant changes in the geographical spread of its exports over recent years. From 2011 to 2016, the importance of the following markets grew for Gazprom: Germany (from 34 billion m³ to 49.8 billion m³), Great Britain (8.2 to 17.9 billion m³), France (9.5 to 11.5 billion m³) and Austria (5.4 to 6.1 billion m³). It would be easier to increase exports to most of them through Nord Stream and Nord Stream-2. On the contrary, the share of consumers that received all (or most of) their Russian gas through Ukraine has decreased. For example, supplies to Central Europe (excluding Poland and the Baltic states) declined from 30.8 billion m³ (2011) to 23.9 billion m³ (2016). Even exports to Italy (24.7 billion m³), which now account for the largest proportion of Russian gas transit through the Ukrainian GTS, have been stagnating since 2013. The country has an active policy of balancing out Russian gas supplies with those from Algeria, which has recently increased deliveries.

The main factor that is clearing the way for Russia to enter the gas market of the industrial core of Europe (northwest Germany, the Benelux, north-eastern France and England) is the dramatic decline of gas production in what was until recently one of the largest European suppliers, the Netherlands (from 77.7 billion m³ in 2013 to 45.5 billion m³ in 2016). This decline was offset by increasing supplies from Russia and Norway (10 billion m³). In addition, natural gas is becoming more popular in these EU countries as an alternative to coal in thermal power generation. In 2016, the share of coal power generation in the UK dropped to 9% from 23% only a year earlier, mainly due to a newly introduced tax on emissions. There are plans to close the country's last coal power plant in 2025. Meanwhile, members of the Eurelectric electricity industry association from 26 countries have pledged not to launch any new coal power facilities after 2020.

REMOVING THE NEED FOR IMPORTS

When Gazprom is able to transfer gas supplies to such large consumers as Germany, Austria, Czech Republic, France, Italy, Turkey and Greece onto other routes, it will be able to abandon the lion's share of transit through Ukraine by reducing its maximum level to the volumes required for Moldova, Slovakia, Hungary and Romania, which have collectively been buying from 13 to 14 billion m³ of Russian gas in recent years. This will clearly make it impossible to ensure reverse-flow supplies of almost the same amount of gas to Ukraine (11.1 billion m³ in 2016) which the country needs to purchase from its western border.

Therefore, the first strategy for responding to the threat that Gazprom will stop fuel transit to the EU via Ukraine should be the reduction – and ideally elimination – of the need to purchase it by the early 2020s. This objective can be achieved by both increasing domestic production and taking advantage of the significant potential to reduce the consumption. While the production in both the public UkrGasVydobuvannya and most private gas producing companies is increasing and could continue to grow, the government uses very little of the opportunities available for further reducing energy use.

THE BEST OPTION WOULD BE TO COMPLETELY REJECT ANY CONTRACTS WITH GAZPROM AFTER 2019 AND MAKE CONTRACTS ONLY WITH THE EUROPEAN COMPANIES THAT PURCHASE GAS FROM IT

According to Naftogaz, consumption of natural gas in 2016 declined by only 0.6 billion m³ compared to the previous year (though the State Statistics Bureau actually shows that it increased). The problem is structural, however: while industry has reduced consumption by 1.3 billion m³ (from 11.2 to 9.9 billion m³), household consumers and regional heating providers, whose consumption is most affected by energy conservation measures, on the contrary used 0.8 billion m³ more than in 2015 (19.2 from 18.4 billion m³). The industrial sector has virtually exhausted its space for savings. Despite the potential for energy savings at most facilities, energy use may even increase in the coming years if economic growth recovers.

Therefore, without measures focused on reducing the excessive consumption of natural gas by local heating providers (which was clearly seen during the latest heating season) and other household consumers, gas use in Ukraine in the coming years could even increase. According to the State Statistics Bureau, in January–April 2017 Ukraine consumed 16 billion m³ of natural gas, or 11.6% more than in the same period in 2016 (14.35 billion m³). This occurred despite the significantly warmer spring and the suspension of the heating season in most parts of the country in early April. In annual terms, consumption reached 33.68 billion m³ (excluding what was used for transportation by Ukrtransgaz) from May 2016 to April 2017, compared to 30.29 billion m³ for the 12 months from September 2015 to August 2016 when the country recorded its lowest level of gas consumption since gaining independence.

The government must monetize subsidies to households as soon as possible, and step up the funding for energy efficiency. In the first quarter of 2017, according to the Ministry of Energy and Coal Mining, thermal power plants and combined heat and power plants (CHPPs) alone consumed 1.67 billion m³ of natural gas out of 12.83 billion m³ total use in the country (com-

pared to 4 billion m³ for the whole of last year, a figure which in 2017 is even expected to increase). The main consumer in the first quarter of this year (0.813 billion m³) was KyivEnergo, controlled by Rinat Akhmetov's DTEK, which burns fuel extremely irrationally, alongside other CCHPs in the country's major cities: two in Kharkiv (214.8 million m³), Kryvyi Rih (76.1 million m³), Odesa, Kremenchuk, Darnytsia [district in Kyiv] and Lviv (40-60 million m³ each for a total of 202 million m³).

If Ukraine continues to burn gas to heat apartments in large cities, then with the current deterioration of heat distribution networks it is necessary to move towards maximum decentralisation, i.e. establishing boiler facilities near major customers. Given the heavy losses when transporting heat through an entire city, the centralised supply of hot water is also superfluous (at least outside the heating season). Even the supplying companies admit that individual apartment boilers would be more cost-effective. This will require urgent measures to increase the capacity of electrical installations in residential buildings, but would reduce gas consumption. At the same time, thanks to tariff incentives the increased use of electricity for heating water can be concentrated during periods of minimum daily consumption. This will also create the conditions for a more balanced energy network and the production of more cheap power at nuclear plants.

TRANSPORTING RUSSIAN GAS WITHOUT GAZPROM

The end of gas transit through the Ukrainian GTS from 2020 is not only a threat, but also an opportunity for the transit potential of Ukraine. The confrontational model of relations with Gazprom that has been seen in recent years could hardly be considered optimal under normal circumstances. However, looking at the way the Russian company imposed its own terms of doing business before 2014, which was most evident in the onerous contracts of 2009, there is ultimately no alternative. Especially against the background of Russian aggression against Ukraine.

Therefore, the best option would be to completely reject any contracts with Gazprom after 2019 and make contracts only with the European companies that purchase gas from it. That gas would have to be handed over at the Russia–Ukraine or Belarus–Ukraine border.

Firstly, this will end the dependence on a gas transit monopolist, and replace it with 5-7 or possibly more European companies that will buy fuel from Gazprom at the Russian border. Secondly, there will be the opportunity to make better use of the Ukrainian underground gas storage (UGS) facilities that the Russian supplier has long ignored for political reasons. European companies could fill them with fuel purchased on the Russian border for periods of peak consumption, which is beneficial for them. Thirdly and finally, in this case Ukraine would not have to buy gas from European hubs at an inflated price. Even if a certain deficit in domestic production is maintained, Ukrainian consumers would be able to purchase fuel from European companies immediately after it enters the Ukrainian GTS from Russia.

If favourable conditions are created for European purchasing companies to transport Russian natural gas through the Ukrainian GTS and store it in UGS there, its transit through our territory could not only not decrease, but actually increase from the current volume, even after Gazprom completes its bypass routes. Though on a new, competitive basis. For this, it is necessary that the prospect of purchasing fuel on the Russian border be significantly more attractive for European companies than buying it after delivery to hubs in Turkey, Austria and Germany. Perhaps Kyiv will have to agree on joint ventures to run the Ukrainian GTS (or some of its main pipelines) with the European consumers of Russian gas for whom the Ukrainian supply route could be economically advantageous under certain conditions (Germany – 49.7 billion m³, Italy – 24.8 billion m³, France – 11.2 billion m³, Austria – 6.1 billion m³, Hungary – 5.5 billion m³, Czech Republic – 4.5 billion m³, Slovakia – 3.7 billion m³, Bulgaria – 3.2 billion m³, etc.).

From 2011 to 2016, supplies to Central Europe (excluding Poland and the Baltic states) declined from **30.8 billion m³** to **23.9 billion m³**. Exports to Italy have been stagnating at around **25 billion m³** since 2013

It is important to create real economic incentives so that it will be profitable for European companies to demand that Gazprom sell them fuel at the Ukraine–Russia border and then transport it further within the framework of the European Energy Community until legislation is changed and certain main pipelines can be sold to joint ventures started with European companies. Ukraine, in turn, will be able to keep its GTS functioning without putting it under the management of Russia or going into a joint venture with it, on which Gazprom always insisted in exchange for continuing its transit through our territory.

Of course, Ukraine will also depend on its Western partners (mainly Slovakia), as their rates for transporting fuel from Ukraine further west will influence whether potential customers give preference to the Ukrainian route or Gazprom's pipelines. However, our neighbours are no less interested in preserving the old transport route than we are, as otherwise they would also lose the lion's share of their transit.

Moreover, the termination of Russian gas transmission to the Balkans through the Ukrainian GTS could create conditions for the start of deliveries of Caspian natural gas from Turkey to Ukraine through the Trans-Balkan Pipeline. Working in the opposite direction, it could be a tool for diversifying hydrocarbon supplies to Ukraine and then – using our GTS – to other neighbouring countries in the region.

Only when we take up the active position of a party to the struggle for transit routes will we be able to interest key European companies in such a transport format and will we have a chance to retain the transit of Russian gas through our territory after 2019 and make our underground storage facilities available for constant commercial use in cooperation with other European companies. It is necessary to put guarantees in place so that some or all of the shares in the joint ventures launched with companies from Europe will not be transferred to Gazprom or another structure controlled by the Russians in the future.

Oil for food

Oles Kramar

Which model Ukraine could apply in its further economic interaction with Russia

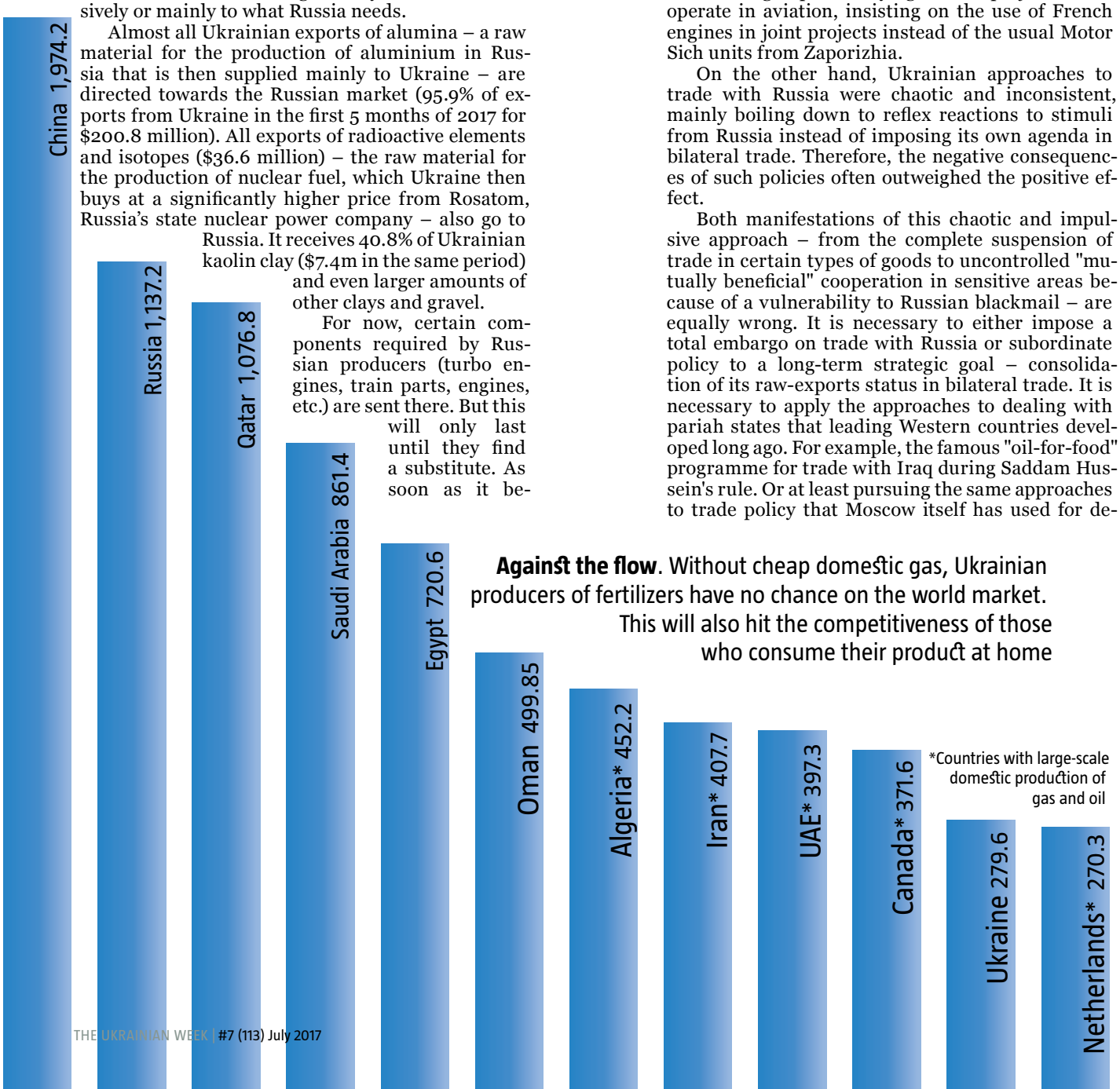
For the last 25 years, Russia has methodically filtered bilateral trade flows with Ukraine in its own interests under various pretexts, gradually closing access to its market for finished products from a variety of Ukrainian industries, from pipes and sugar to dairy and confectionery. As a result, bilateral trade was gradually restricted exclusively or mainly to what Russia needs.

Almost all Ukrainian exports of alumina – a raw material for the production of aluminium in Russia that is then supplied mainly to Ukraine – are directed towards the Russian market (95.9% of exports from Ukraine in the first 5 months of 2017 for $200.8 million). All exports of radioactive elements and isotopes ($36.6 million) – the raw material for the production of nuclear fuel, which Ukraine then buys at a significantly higher price from Rosatom, Russia's state nuclear power company – also go to Russia. It receives 40.8% of Ukrainian kaolin clay ($7.4m in the same period) and even larger amounts of other clays and gravel.

For now, certain components required by Russian producers (turbo engines, train parts, engines, etc.) are sent there. But this will only last until they find a substitute. As soon as it became possible to opt out of importing components or engineering products from Ukraine, Moscow did this, regardless of the state of bilateral political relations and who was in power in Kyiv. For example, it was during Yanukovych's regime that Russia began to reduce locomotive purchases from Ukraine and sabotaged previously agreed-on projects to cooperate in aviation, insisting on the use of French engines in joint projects instead of the usual Motor Sich units from Zaporizhia.

On the other hand, Ukrainian approaches to trade with Russia were chaotic and inconsistent, mainly boiling down to reflex reactions to stimuli from Russia instead of imposing its own agenda in bilateral trade. Therefore, the negative consequences of such policies often outweighed the positive effect.

Both manifestations of this chaotic and impulsive approach – from the complete suspension of trade in certain types of goods to uncontrolled "mutually beneficial" cooperation in sensitive areas because of a vulnerability to Russian blackmail – are equally wrong. It is necessary to either impose a total embargo on trade with Russia or subordinate policy to a long-term strategic goal – consolidation of its raw-exports status in bilateral trade. It is necessary to apply the approaches to dealing with pariah states that leading Western countries developed long ago. For example, the famous "oil-for-food" programme for trade with Iraq during Saddam Hussein's rule. Or at least pursuing the same approaches to trade policy that Moscow itself has used for de-



Against the flow. Without cheap domestic gas, Ukrainian producers of fertilizers have no chance on the world market. This will also hit the competitiveness of those who consume their product at home

cades against Ukraine. In other words, gradually restricting imports from Russia to the types of raw materials, intermediate products and components that will make important industries and manufacturing more cost-effective in Ukraine, without allowing them to reach critical amounts in their share of total imports and consumption in order to avoid threats to Ukraine's economic security. At the same time, it makes sense to phase out trade wherever it is more profitable for Russia than for us, as long as this will not cause serious problems for Ukraine or, on the contrary, will facilitate the transfer of the production/assembly facilities of multinational corporations from Russia onto our territory.

CHEMICAL WARS

Instead, we now have, by all appearances, the opposite situation. The Ukrainian chemical industry is a particularly revealing example. Much of it has long been controlled directly by Russian capital or through Ukrainian agents. For example, Dmytro Firtash's business empire was established with Russian money and was always controlled by the oligarch's Russian masters. After not being particularly concerned about upgrading facilities or creating new types of production that are less vulnerable to external shocks for decades, the owners are trying to compensate for this by lobbying for protectionist measures. Recently, structures that are essentially Russian (formally or practically), such as the I Prize group or Dmytro Firtash's Ostchem have been very successfully and cynically using the natural anti-Russian sentiments in the country to enhance their own monopolies and make windfall profits at the expense of Ukrainian consumers.

Anti-dumping measures on imports of Russian ammonium nitrate to Ukraine were first introduced in May 2008. In 2014, they were extended for 5 years – until July 2019. In June 2015, the Interdepartmental Commission on International Trade (ICIT) launched another investigation on imports of mineral fertilisers from Russia based on a complaint from companies that belong to Dmytro Firtash's Ostchem group: Azot in Cherkasy, the Severodonetsk Azot Association and the Styrol concern in occupied Horlivka. On 27 December 2016, the ICIT set new duties at 4.19%, 18.78% and 31.84% for various Russian manufacturers. Despite that fact that in August 2016 representatives of a large number of associations of agricultural producers, including farmers' associations (Agrarian Union of Ukraine, Ukrainian Agrarian Confederation, Ukrainian Agrarian Council, Ukrainian Club of Agrarian Business, Ukrainian Association of Farmers and Private Landowners), wrote an open letter to the government opposing non-market price regulation methods and demanding not only that additional duties on urea and urea-ammonia compounds not be introduced, but also that existing anti-dumping duties on ammonium nitrate be removed.

They also demanded an antitrust investigation of the domestic fertiliser market and sanctions for price fixers. In fact, after the introduction of anti-dumping duties on ammonium nitrate in 2014, Ukrainian prices for all major nitrogen fertilisers increased significantly, exceeding export prices by 14-17%. Despite the fact that there are additional costs when exporting, especially for logistics, so domestic prices should be lower. As a result, the total losses of Ukrainian farmers in 2014-2016 from the difference in nitrogen fertiliser prices alone can be estimated at $400 million. For its part, the Anti-Monopoly Committee of Ukraine (AMCU) has already confirmed the monopoly position of the two Azot enterprises in Dmytro Firtash's Ostchem on the urea market. In 2015, it began proceedings on the grounds that the company NF Trading Ukraine is abusing its dominant position on the ammonium nitrate market by setting prices in a way that would not be possible if there were significant competition.

AGAINST THE BACKGROUND OF THE "CHEMICAL WARS", THE CONTINUED DEPENDENCE OF UKRAINE ON SUPPLIES OF A NUMBER OF ENERGY SOURCES FROM RUSSIA IS MUCH MORE CRITICAL, VIRTUALLY MAKING THE COUNTRY LIVE WITH A CONSTANT THREAT TO ITS ECONOMIC SECURITY

Following a request from the Agriculture Ministry, on February 13 the ICIT determined that "national interests require the suspension of anti-dumping measures for imports to Ukraine of certain nitrogen fertilisers originating in the Russian Federation" and cancelled the duties introduced in December 2016. However, after Firtash resorted to radical blackmail methods and completely stopped the production and shipment of nitrogen fertilisers, the Interdepartmental Commission on Internation- »

Top net importers of urea among Ukraine's major competitors on the agricultural market, 2016, $ mn

The author's calculations are based on International Trade Center data

al Trade nevertheless decided to establish 31.84% duties on imports to Ukraine of certain nitrogen fertilisers (urea and urea-ammonia compounds) from Russia.

Another Russian structure on the Ukrainian chemical products market operates in the same way. KarpatSmoly in Kalush, which is controlled by the Russian I Prize group of companies, initiated an anti-dumping investigation on imports to Ukraine of urea-formaldehyde products from Russia. Compared to the first half of 2014, the proportion of imports from Russia in Ukrainian consumption has increased in the second halves of 2014-15 and the first half of 2016 by 21%, 13% and 5% respectively. While the complainant's sales fell by 17%, 20% and 58% respectively. In April 2017, the Commission adopted a decision to launch an anti-dumping investigation on imports to Ukraine of urea-formaldehyde resin and urea-formaldehyde concentrate.

However, the economy is a complex organism. The introduction of such restrictions, of course, may help to maintain and even increase production at KarpatSmoly, but the higher prices for its products will jeopardise the competitiveness of their consumers. This not only threatens significantly higher economic losses in sectors with higher added value, but could also negate the positive effect of introducing prohibitive duties: the share of Ukrainian manufacturers on the market could rise, but in contrast to a significant reduction in consumption of more expensive products.

A restriction on deliveries of a certain product from one source — for instance, no more than **25%** or **35%** of imports — could be a universal long-term tool against Ukraine's dangerous dependence on Russian suppliers

Many Ukrainian chemical plants, above all fertiliser producers, have really been going through hard times over the last decade and especially in the past few years. Both the unusually sharp drop in prices for finished products on the world market and the adjustment of gas prices on the domestic market have made themselves felt. The latter, if it did not put an end to them, at least substantially undermined the schemes to burn natural gas "saved" by regional gas suppliers controlled by Dmytro Firtash and written off for the needs of the public at discounted prices at Ostchem plants that belong to the same oligarch. The above factors made the very prospect of survival dubious for Ukrainian nitrogen fertiliser producers in the context of a global market where they have to compete mainly with suppliers from countries with excessive domestic gas production and accordingly low prices for it (see Against the Current). Revenues from the sale of fertilisers abroad decreased almost fourfold in recent years: the first quarter of 2014 brought in €160 million, while the figure for the first quarter of 2017 was only €42 million. In 2013, 3.69 million tonnes of nitrogen fertilisers were exported for €0.85 billion, but in 2016 half of this amount (1.81 million tonnes) made only a third of the former revenues – €0.29 billion. The situation on the domestic market also became more complex.

It is also true that dependence on imports of Russian nitrogen and particularly compound fertilisers had indeed reached a dangerous level. Specifically, 78.1% (80.6% in value) of nitrogen fertilisers came from Russia in 2016. The lion's share of the rest is from Belarus, where enterprises are totally dependent on Russian gas supplies for production.

Nevertheless, it is important to avoid prohibitive tariffs and other mechanisms that create problems for customers and artificial preferences for certain monopolies. Especially if we do not want the objective loss of international competitiveness by the Ukrainian chemical industry, especially producers of nitrogen fertilisers, to pull other sectors of the Ukrainian economy, including the agricultural sector, into the abyss with it. Prohibitive duties are a bad path if we want to protect our economic security without undermining the sectors of the national economy that consume the corresponding products.

Unfortunately, it is a fact that the world market for nitrogen fertilisers is an arena for competition between producers from countries that have significant domestic resources of natural gas at prices below the world average (see. Against the Current). Apart from China, none of the countries that set the tone on the global nitrogen fertiliser market buys gas for this purpose at world prices.

It is well known that gas represents up to 80% of the cost of fertiliser. So when prohibitive duties of over 30% increase production costs to 130% of the market price that would exist if competition were preserved, this actually means that Ukrainian consumers would pay more for the imported gas used to produce it (80% of the 130% cost of imported fertiliser = 104%) than for ready-made fertilisers. What is the point in making fertilisers if for each tonne of their production Ukraine will have to import gas for the same amount of money that could buy a tonne of fertiliser?

Instead, Ukrainian consumers are forced to fund this "life support" for fertiliser producers, or more precisely their owners' profits and wages that are a very small share of the final output. Then these Ukrainian consumers of fertilisers – agricultural producers – have to compete on the global market with agricultural companies from other countries who buy fertilisers at world prices (see Against the Current), which are lower than those set for the Ukrainian market by domestic monopolies.

After all, the agricultural sector is more important for Ukraine than the artificially supported production of fertilisers. The shares of the chemical industry and agriculture in GDP and employment are simply not comparable. While companies that produce nitrogen fertilisers employ only around 23,000 people and the entire chemical industry (production of nitrogen fertilisers is only part of it) provides less than 1% of GDP, the corresponding figures for agriculture are dozens of times larger. Only counting full-time employees, over 430 thousand people work in agricultural enterprises and their share in 2015 GDP reached 12.5%. In 2015, gross value added (i.e. officially recorded gross profit and employees' salaries) in the chemical industry was only 8.2 billion hryvnias compared to 239.8 billion in agriculture. Finally, agricultural products account for nearly half of all exports from Ukraine and therefore the lion's

share of foreign currency revenues that ensure stability of the national currency.

Moreover, the few companies in the chemical industry (including the three Azot plants in Cherkasy, Rivne and Severodonetsk belonging to Dmytro Firtash's Ostchem) stand no comparison with the tens of thousands of agricultural enterprises, including more than 30,000 farms, that are consumers of fertilisers and whose costs – and accordingly competitiveness on the global market – depends on their prices.

A THREATENING "THOUGHTLESSNESS"

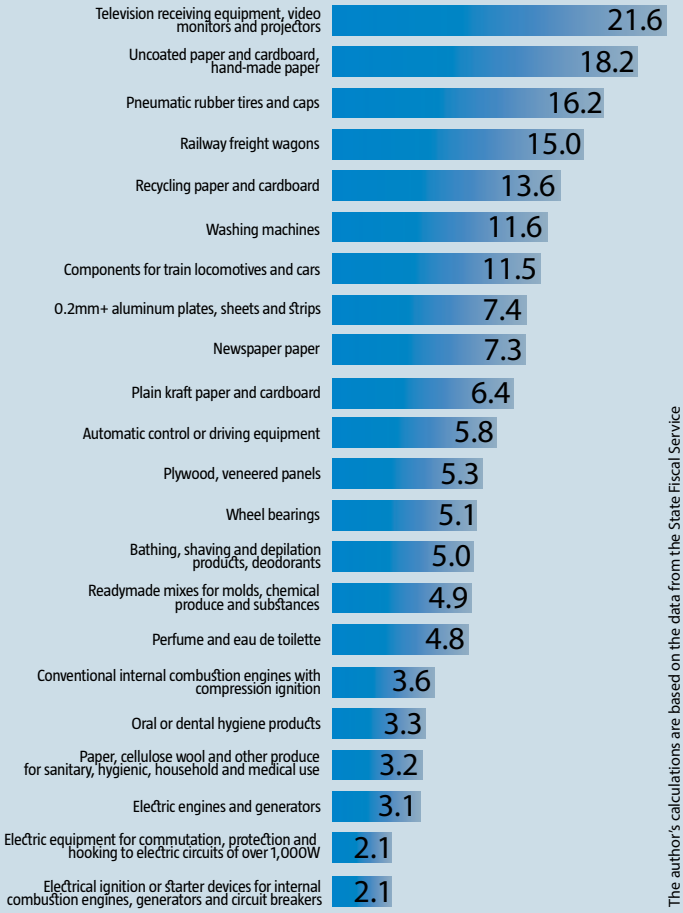
Against the background of the "chemical wars", the continued dependence of Ukraine on supplies of a number of energy sources from Russia is much more critical, virtually making the country live with a constant threat to its economic security. After all, in its hybrid war against Ukraine the Russian side has repeatedly demonstrated a willingness to use limitations not only on supplies of our goods that are largely dependent on exports to the Russian market, but also on deliveries to Ukraine of raw materials and energy sources, a shortage of which would threaten the Ukrainian economy with serious problems.

For example, in January–April 2017 279,750 tonnes of anthracite coal out of a total of 283,030 were imported from Russia, 2.95 million tonnes out of 4.42 million of coking coal and 176,000 out of 393,000 tonnes of coke. Over the same period, 323,200 out of 330,500 tonnes of liquefied gas (propane-butane) and 1.8 million out of 2.25 million tonnes of petroleum products were imported from Russia and Belarus (which in this case are the same thing). This is a real instrument for energy and economic blackmail that we are leaving in the Kremlin's hands. All these products could be substituted by purchases elsewhere, but it would be problematic to do this quickly with current imports from Russia (sometimes together with Belarus) at 60-99% of required amounts. Therefore, it is necessary to reduce dependence on Russian imports of these product groups right now.

However, there has not been any noticeable decisive action from the government. In April 2017 the Ministry of Energy, according to statements from minister Ihor Nasalyk, submitted a draft resolution to the Cabinet on banning the import of power-generating coal from Russia, however, looking at DTEK General Director Maksym Timchenko's comments, the company's lobbying was able to prevent the adoption of such a decision by the government. Moreover, in May 2017 418,700 out of 446,300 tonnes of power-generating coal came from Russia. Deliveries are primarily continuing from DTEK's Russian coal mines Obukhovskaya and Dalnyaya to the Luhansk combined heat and power plant belonging to the same company. What's more, such a supply scheme works fully in the interests of Russia. Indeed, according to the aforementioned Mr. Timchenko, the Obukhovskaya mine is in fact managed solely by DTEK. However, it is pledged to the Russian Sberbank as security and everything that it earns goes to pay back loans issued by that bank. In this way, the Luhansk combined heat and power plant is actually working for Sberbank Russia and the energy it produces at the enormous rate of 2 hryvnias excluding VAT is paid for by Ukrainian energy market.

Import replacement options

Some readymade items imported from Russia that Ukraine could produce domestically, January-May 2017, $ mn



The author's calculations are based on the data from the State Fiscal Service

If an unexpected suspension of Russian supplies of certain goods could provoke problems in Ukraine for political reasons, strict limits on the proportion of imports that come from Russia are required, as well as an urgent shift to other trading partners. In this case, the economic cost is not of fundamental importance. A restriction on deliveries of a certain product from one source (for instance, no more than 25% or 35% of imports) could be a universal long-term tool against the country's dangerous dependence on Russian suppliers. However, the actual and not formal country of origin should be taken into account.

This approach would not only solve security issues, but also objectively raise domestic prices to a level that would interest alternative suppliers that are farther away from the Ukrainian market than the Russians are. After all, the current approach of high tariffs on fertilisers from Russia has not been able to disrupt the monopoly held on the Ukrainian market by pro-Russian oligarch Firtash in tandem with his Russian competitors, despite the rebalancing of domestic market shares between them.

One-on-one with the war

Yelysaveta Honcharova, Bakhmut

After three years of fighting, the state has yet to decide whether to help civilians affected by military action

The number of people who have been affected to some extent by the shelling of towns and villages in the Donbas increases with every day of the so-called ATO. The number of partially or completely destroyed buildings has exceeded 10 thousand, from 7 to 9 thousand civilians have been injured and more than 2,000 killed. However, no special state aid for the reconstruction of housing, compensation for families of those killed or physical rehabilitation for wounded civilians is expected: two bills were submitted for consideration by MPs, but at the time of writing both had been rejected during their first reading. Only local and regional authorities are dealing with emergency issues and, more often than not, this only concerns public buildings, schools, hospitals and nurseries. The lion's share of funds are received from donors and international humanitarian organisations. Human rights activists are also getting positive decisions from the courts, but so far the state has not followed these judgements on compensation.

Nina, a pensioner from Luhanske (a frontline village on the Svitlodarsk Bulge – **Ed.**), was seriously injured in March 2017 while working in the garden. An ambulance could not be sent due to the shelling, so neighbours took the bloodied woman to hospital in their own car. Miraculously, she survived: a long operation and massive blood loss is a significant detriment to the health of an elderly woman who is almost unable to walk due to the injury. "The operation and care in the hospital was free. But we didn't get any compensation from the state, although we still have to buy medication every day. We know that a criminal case was opened because of the injury, but in the following three months the police, unfortunately, didn't even question my mother. We thought about maybe applying for disability, but don't know where to start. In any case, it would be disability due to general illness: we are not at war, so there should not be any war disabilities. And it's very hard for her to go anywhere now to record the effects. A human rights organisation has promised to sue for compensation, but we honestly aren't even hoping for it," says Julia, the victim's daughter.

Now a lawyer is trying to make the investigation speed up the inquiry in order to receive confirmation of the injured civilian's status. Although all possible deadlines have passed, the local police station could not even give us the name of the investigator. If public prosecutors cannot help either, human rights activists plan to go directly to international courts in order to claim compensation for the detriment to her health. In Nina's case, there is still hope: the medical certificate the victim received stated that she had shrapnel wounds. Which, for example, is not mentioned in the certificates given to the wounded (not only civilians, but many military men too), who came under fire in 2014. Then, according to volunteers, most injuries were listed as civilian ones – it will now be extremely difficult to prove that the war caused the loss of health. There are all many problems with housing, but local people in almost all towns know where to start.

On the ground, the destruction of housing is at least documented. Local authorities (representatives of village or town councils) are making records alongside the police, travelling to the scene immediately after shelling stops. This happens almost daily in settlements on the line of contact like Maryinka, Avdiyivka and Zaitseve. It is virtually impossible to even record the extent of damage there, never mind repair the housing. This is not only dangerous for repair workers, but also totally pointless because of the constant shelling. However, most of the population that resides in these villages and towns cannot wait for a hypothetical end to the conflict, when all the losses will be counted up: they simply have nowhere to live. This is why international programmes are designed primarily for emergency assistance in flashpoint areas: the state should take care of large-scale reconstruction. The recent aggravation of the conflict has even affected the aid policy planned by international organisations, as reported in a joint information bulletin on the Humanitarian Response website: "82% of the housing and consumer goods assistance that was provided in the first quarter of 2017 was vital aid linked to completing preparations for the winter and the supply of additional emergency materials due to the increase in damaged buildings over this reporting period. Repair work made up only 4% of total activity. If attacks continue with the same frequency as now, it will be necessary to review the amount of emergency assistance and aid for small repairs."

Over the three years of the conflict, 145,775 families have received targeted accommodation aid from various humanitarian organisations. This includes payments for coal and funding for insulation, as well as basic blankets and heaters. Only 20 families had their houses fully repaired, more than 16,000 were helped to make light and medium repairs and the same amount were given tarpaulin to cover the remnants of buildings in order to avoid further damage. The international charities also invested money in repairing collective centres and funding temporary housing for those who have absolutely nowhere to go, but this is not much in the grand scheme of things.

The aid algorithm of the council executive committee in frontline Toretsk, which is still periodically shelled, is as follows: "The only thing we can do is make documents recording the damage by visiting the scene. Several times, we were able to provide some small amounts from the local budget for families who had people killed by the shelling. But these are crumbs... We renovated the affected apartment buildings that belong to the town on our own. But private housing is only helped by philanthropists and international organisations. The Red Cross and People in Need helped with materials, but in general there is really no legal mechanism for this."

In large towns such as Sloviansk or Kramatorsk, most of the damaged buildings were repaired by local core enterprises and volunteers from different regions of Ukraine. Repair programmes (materials and a part of the labour for welfare beneficiaries) are still operating in frontline settlements. Instead of repairing damaged buildings, some large families from villages that were cut in half by the war had homes purchased for them in other settlements – also at the cost of religious and charitable organisations. But these are more the exceptions than the rule. Residents of private housing were virtually left alone with his problem. Most people are forced to repair damaged buildings and structures themselves, hoping that one day they will receive at least some compensation. There are thousands of people who cannot even hope for it: those who did not start using their property, did not register it (after purchase or inheritance) or lost the ownership documents, as well as the owners of summer homes who resided there permanently. And who knows if documents drawn up in 2014, when there was no aid system in place, will help. The Danish Refugee Council, for example, warns that it is important to help people who suffered losses in 2014, because their documents recording the damage could become invalid in July 2017 (three years from the start of the ATO). In addition, in 2014 the contents of these documents ranged from formal to informal, which could create barriers for those who suffered losses during attempts to prove that the conflict damaged their residential property.

The number of partially or completely destroyed buildings has exceeded **10 thousand**, from **7 to 9 thousand** civilians have been injured and more than **2,000** killed

"Most often, human rights activists are the ones to go to court. If evidence is properly collected, winning the case is realistic. But it's very, very hard to get the money... More than a year passes from submitting the paperwork to getting the money," says human rights activist Natalia Chuiko. "There are cases, lots of them, but I don't think anyone has got money yet. Why are they bringing action against Ukraine instead of suing Russia? Because it has not been proven internationally that Russia is involved in the conflict, so we do not have any relevant legislation. What is the point in a decision to claim compensation from Russia if it is completely impossible to implement?"

Nevertheless, things are much worse for those whose housing remains in the occupied territory. Human rights organisations recommend collecting any information possible on the forcible seizure or destruction of property: photos, eyewitness accounts. However, apart from lawsuits in international and Ukrainian courts that are more strategic than practical, it is currently impossible to receive any sort of compensation. Or officially sell housing in the occupied territory to buy elsewhere. Therefore, those who still have the strength and capabilities have already started to work according to the principle of "if you don't help yourself, no one will" without waiting for assistance from the state. Some are joining forces as co-operatives to build affordable housing in rural areas or risk taking out mortgages. Some have got used to the fact that they will be forced to live out the rest of their lives in dormitories, moving from apartment to apartment or with relatives, their own homes nothing more than a memory. Some decide not to go anywhere and have fitted out the cellars underneath their destroyed housing, risking day after day that they will stay there forever. But all of them probably still wonder when the state will finally at least notice the problem that concerns millions of its citizens, not to mention providing real help, which it seems no one believes in anymore.

Stuck in the dark

Denys Kazanskiy

Ukrainian civilians who are in captivity in "LNR" and "DNR" are one of the most painful problems facing Ukraine

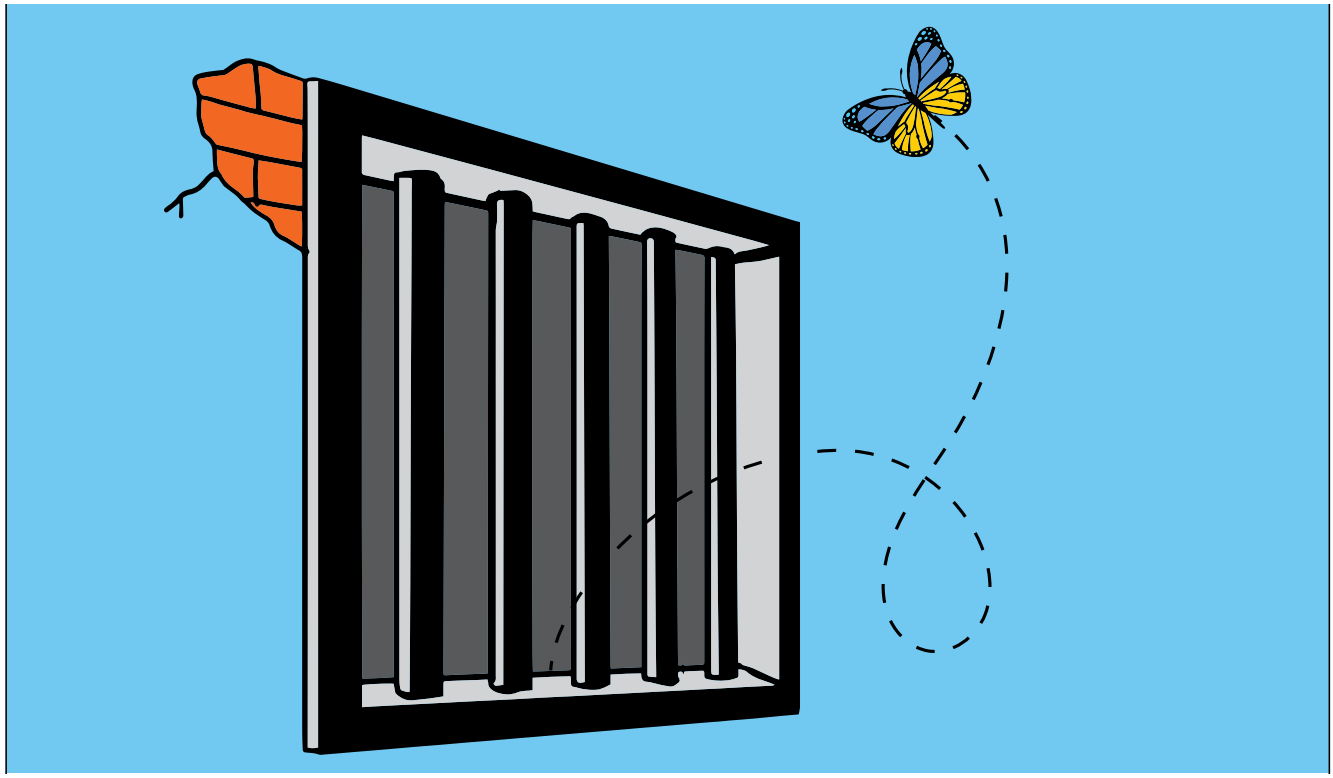
Not all the Ukrainian citizens held captive in occupied parts of the Donbas are military prisoners whose release is regularly raised during negotiations in Minsk. Since the start of the war in 2014, millions of Ukrainian citizens suddenly found themselves in occupied territory. Thousands of them went missing or were imprisoned in basement torture chambers belonging to the illegal military groups, who accused them of a wide range of "acts." Helping these civilians is much more difficult than the service personnel. Today, no one has any real idea how many civilians are in captivity, let alone their basic information.

With the military prisoners, things are relatively clear. According to Iryna Herashchenko, the President's envoy in the Minsk process and member of its humanitarian subgroup, 128 have been confirmed. Kyiv knows their names, DOBs and so on and has sent these lists to the pseudo-republics. "DNR/LNR" responded that they were holding only about 50 of those mentioned on the list and that they were willing to consider a prisoner exchange.

Civilian hostages are in an entirely different situation. How many of them are currently being held in prisons and basements in the occupied territories is probably not even known by those holding them. The case of the military prisoners is a very clear example: the militants claim that they have only 50 prisoners, when the Ukrainian side knows the exact location of around 70. There is no open information about how many people are currently imprisoned in ORDiLO, the occupied parts of Donetsk and Luhansk Oblasts. In some cases, even the person's closest relatives have no idea where they are.

One unhappy case that ***The Ukrainian Week*** directly experience was the June 2 disappearance of one of our journalists, Stanislav Aseyev who used the pen-name Stanislav Vasin, while on "DNR" territory. When his family discovered that someone had gone through his apartment and taken personal items and his work laptop computer, they turned to the so-called police of "DNR". But they said they knew nothing about what might have happened to the journalist. After that, relatives turned to the territory's "Ministry of State Security (MGB)" but they got no further.

Hundreds of other people who live in Luhansk and Donetsk Oblasts have found themselves in the same situation. Unlike the disappearance of a journalist,



these cases do not get publicized much, as a rule, and have become par for the course in the occupied territories. The only way a real figure for such unfortunate individuals who have disappeared without a trace can be established is if all the families turn to Ukrainian law enforcement agencies for help. Many of them do not, however, because they worry about making things worse for the captive.

Aside from the disappearance of Vasin, there have been other high-profile incidents with Ukrainian citizens who have simply disappeared: Makiyivka resident Volodymyr Fomichov and academician Ihor Kozlovskiy. Both were captured on "DNR" territory and are being held against their will. The "DNR court" sentenced both to several years in prison. Neither of the men is a military person and neither ever took part in any military action, yet the Russian proxies accused them of being saboteurs and of "state treason." Expecting some basis for such accusations or a normal court process, where the accused have the right to defend themselves, is unrealistic in the marionette pseudo-states. The fate of these individuals is entirely in the hands of the illegal armed bands that are currently in charge in ORDiLO.

Another case is the incident with Luhansk judge Vitaliy Rudenko, who crossed into ORDiLO to attend his father's funeral in the fall of 2016 and also ended up a captive of the militants in Luhansk. Initially, news of his kidnapping was not announced, because expectations were that he would quickly be swapped. In the end, no exchange took place and at that point the news was made public. Rudenko was also accused of "state treason," on the basis that he had supposedly been responsible for a court ruling that arrested the director of the waterworks, which led to "LNR" territory being without water.

Similar repressive methods have been used by the militants not only against those who are somehow connected to Ukraine or support it, but to all "unreliable" residents of ORDiLO. Anyone who is not entirely pleased with what is going on in ORDiLO and is critical of the Zakharchenko-Plotnytskiy regime is accused of working for the "Kyiv junta." Sometimes though, it's anyone who accidentally happened to be in the wrong place at the wrong time and was deemed suspicious.

There have been hundreds of incidents where people who were simply walking down the street and talking on their cell phones were grabbed and accused of being spotters and helping adjust artillery fire. The militants themselves have written about such incidents. In some cases, such individuals were unfortunate enough to be killed on the spot. A widely-publicized case was that of Denys Butyrskiy, who was shot to death right in downtown Donetsk in the fall of 2014, because someone decided erroneously he was a spotter.

Ending up in a "basement" in ORDiLO has happened to people who simply complained about how hard life had gotten. Indeed, in 2016, a propaganda rag called Novorossiya that is run by the Russian proxies called on its readers in Issue 71 dated January 21 to turn in to the "MGB" any people they knew who were dissatisfied with life in the "republic." An article entitled "Provocateurs are picking up pace," the militants wrote: "Lately we can see the work of provocateurs become noticeably more active. Typically, these people show up in very crowded places and bother other individuals with conversations about how 'hard' their lives are and filled with 'injustices' or, on the contrary, suddenly express endless 'empathy' towards their collocutor, although it's the first time the two have met. Provocateurs work in public. There are rare cases where they work in pairs and even in a group, so that one can start and another one, passing himself off as a stranger, supports them, attracting the attention of all those around them and trying to draw as many others as possible into the conversation." At the end of the article as a phone number that "alert citizens" can use to report any "provocateurs."

Without a list of those of its citizens who are being held captive in the occupied territories, Ukraine effectively has no opportunity to influence their fates. As practice has shown, it's easiest to get captives released when there's been a lot of publicity around the specific case. Specifically, Ukraine managed to do a swap for journalist Maria Varfolomeyeva, who had been held in a basement cell for a year in Luhansk after being accused of working for the Ukrainian Armed Forces.

Kyiv has a list of **128** service personnel who have been taken captive in the pseudo-republics. "DNR/LNR" claim that they are holding only about **50** of those listed but are willing to consider a prisoner swap

What makes the situation with these civilian captives more complicated is that the militants declare them "citizens of LNR and DNR" and flatly refuse to exchange them. According to their logic, residents of Donbas are not citizens of Ukraine, so their fate can only be decided by the representatives of local administrations who have been appointed by Russia.

Obviously, the Ukrainian side will only be able to help all these people after it receives at least some information about these hostages and lists with their names. Still, how this data might be collected and systematized is no one's guess, even those who have been involved in prisoner exchanges for a long time.

Maria Tomak, a rights activist and coordinator of the Media Initiative for Human Rights CSO, explains that rights activists cannot collect the information about ordinary residents who are being held by the militants. "We were involved in this over 2014-2015, but then we lost touch with the occupied territories and began to work exclusively with the Russian Federation and Crimea, where there is at least some possibility of influencing things or getting new information," says Tomak. "The SBU lists also include civilians, but there doesn't seem to be any way to confirm that they are all imprisoned there. At least I have no idea how we might do that. The SBU has taken on all the processes when it comes to the occupied territories and specifically civilian hostages. Meanwhile, the SBU tends to publish fairly inaccurate information regarding civilian hostages in the Russian Federation and Crimea, pulled out of thin air. In addition, the OSCE is working in ORDiLO and continually verify lists with the militants. In this way, they should be the ones controlling whether all those who should be are on the lists."

In any case, those Ukrainian citizens who remained on occupied territory and have been taken captive by the militants are in a real fix. They can't expect help to show up quickly. This means that everyone who is in ORDiLO today should consider one piece of advice: with a territory where laws and rules don't work, the best thing is to leave as quickly as possible.

So many suspects, so little evidence

Stanislav Kozliuk

On June 14, it was a year since the last exchange of Ukrainian political prisoners in Russia took place. Nothing has happened in all that time to make a swap more likely

One year ago, President Poroshenko's official social page announced: "Yuriy Soloshenko and Ghennadiy Afanasiyev are on board a Ukrainian jet as we speak and leaving Moscow for Ukraine. We've fought so long to reach this goal!" And on June 14, 2016, the two men did indeed return to their homeland from Russian captivity. They had been exchanged for the organizers of the "People's Council of Bessarabia," Olena Hlishchynska and Vitaliy Didenko. Prior to that, Ukraine exchanged Russian special forces officers Aleksandr Aleksandrov and Yevgheni Yerofeyev for Ukrainian pilot Nadia Savchenko. With this, the process of returning Ukrainian captives ended. True, Mustafa Dzhemilev's son Haiser returned from Russian prison, as did Yuriy Ilchenko, who was accused of extremism. But these few cases can hardly be described as an "exchange process." Haiser Dzhemilev had already served his sentence, for all intents and purposes, while Ilchenko fled from Crimea to mainland Ukraine.

Meanwhile, the number of Ukrainians and Crimean Tatars who have been trapped by Russia's forces agencies has only grown. Take the case of the "Crimean diversionary group," which includes at least 9 men: Yevhen Panov, Andriy Zakhtiy, Volodymyr Prysych, Rydvan Suleimanov, Dmytro Shtyblikov, Oleksiy Bessarabov, Volodymyr Dudko, Hlib Shabliy, and Oleksiy Stohniy. The nine were arrested in two phases, the first four in August 2016, while other five found themselves behind bars in November. By then, Prysych had already been handed down a sentence of three years in prison under Art. 228 of the Russian Federation's Criminal Code—illegal acquisition, possession, transport, preparation and processing of narcotic substances.

Of course, this sentence had nothing at all to do with the reason for his arrest, which was "sabotage." Prysych himself during his final statement in court declared that the accusation of possession and transportation of narcotic substances was completely fabricated by the FSB. He explained that the forbidden substances were planted and that he was forced to sign the protocol with his supposed confession in order to avoid an even more serious fabricated crime.

In addition to "sabotage and diversion," it appears that Russia hasn't forgotten about the cases where people have been accused of "espionage." Under these articles, Russia tried the now-released Soloshenko, as well as Valentyn Vyhivskiy and Viktor Shur, who remain imprisoned in Russia. At the beginning of October 2016, yet another "suspect" appeared on the horizon: UkrInform journalist Roman Sushchenko. Sushchenko had been the new agency's Paris correspondent since 2010 and worked in Strasbourg. He decided to go to Russia to visit family and on October 2, he was due back in Ukraine. Instead, he turned up in the infamous Lefortovo jail. Immediately after his arrest, the International and European Federations of Journalists and the European Alliance of News Agencies Council turned to the Kremlin with a demand to release the journalist. Reporters Without Borders added their weight to the demand. Official agencies in Ukraine also argued that the journalist could not have been a spy. Russia, of course, ignored the statements, demands and appeals, leaving Sushchenko behind bars. Instead the FSB insisted that Sushchenko was a "career spy" and was supposedly gathering information about the RF Armed Forces. The Kremlin's response was that arresting the journalist was "a standard operation by the security service."

Mark Feygin, the Russian lawyer famed for his work with Pussy Riot and Nadiya Savchenko, took it upon himself to represent the Ukrainian journalist. In May, he told Ukrinform journalists that the materials in the case had already extended to some 10 volumes, while investigative activity, in his words, was in a state of suspended animation. In the eight months since Sushchenko was taken and imprisoned, his defense tried to change the preventive measures in vain: the decision of the Russian "court" has not been altered.

PHOTO: KRYMR.ORG/RFE/RL

Repressed in Crimea. Emil Kurbedinov (left) and Ruslan Zeitullayev (right)

In addition to Sushchenko, it's quite likely that freelance Radio Svoboda (RFE/RL) journalist Mykola Semena will end up sentenced. In April 2016, the FSB filed a criminal case against him on the basis of an article he had written that supposedly included "calls to violate the territorial integrity of the Russian Federation." At the end of January, the journalist was handed down an indictment for "separatism." It seems that Russia's security services found indications of a call to violate the territorial integrity of the RF in an article called "Blockade: The first mandatory step to freeing Crimea." This case has already moved to court hearings. Ukraine's Foreign Ministry has demanded on more than one occasion that Russia stop the investigation into Semena and Sushchenko, most recently on June 6, Journalists' Day.

"Since this is Journalists' Day, we demand, once again, that the Russian Federation stop its political persecution of journalists Sushchenko and Semena," said MFA Spokesperson Mariana Betsa on her Twitter page.

In addition to the persecution of Ukrainians in Crimea, pressure continues on Crimean Tatars with the application of anti-terrorist legislation, including with reference to possible members of Hizb ut-Tahrir, which is banned in Russia, and participants in the demonstration outside the Crimean legislature in February 2014. An entire series of cases is still going before the "courts." Meanwhile, quite a few Crimean Tatars have already been sentenced. Ruslan Zeitullayev, who was involved in the case of Crimean Muslims, was sentenced to 12 years hard labor for organizing a local center of Hizb ut-Tahrir in Crimea, although the organization remains quite legal in Ukraine. He protested openly against the persecution of his fellow Crimeans and went on a hunger strike several times. Zeitullayev demanded that the RF government stop persecuting Crimean Tatars for "extremism" and "terrorism," that it release other defendants in the Crimean Muslim case, and that it allow members of the press to visit him. However, the persecutions continue.

What's more, this year has made it obvious that not only activists with a clearly pro-Ukrainian position are now under threat of persecution, but anyone who assisted them, including after their arrests. One highly-publicized incident is the arrest of Emil Kurbedinov, the lawyer defending Crimean Muslims. At the end of January, the defender was going to one of the activists for a search when a patrol stopped him. Eventually he was sent to the court where he was subjected to 10 days of detention. In addition, the lawyer's office was searched and his computers and other equipment seized.

Not long ago, the FSB tried to detain another lawyer, Nikolai Polozov, who is defending Ilma Ymerov, in order to interrogate him. Rights activists spoke about pressure being put on lawyers working in Crimea and trying to defend Crimean Tatars. Beyond this, from time to time, news comes out about the latest searches of activist apartments in Crimea.

"This year, the investigations have moved to a different level," says Oleksandra Matviychuk, coordinator at Euromaidan SOS and an activist in the Let My People Go campaign. "Earlier we could see a growing number of cases of political pressure on people, whereas now we are seeing persecutions of those who help the political prisoners: their lawyers, those who bring them parcels, and so on. This means that the barometer of unfreedom in the occupied peninsula has reached a critical level."

Right now, the rights activists' list has 44 names on it, but there could turn out to be more.

"Our list has the names of 44 individuals who are behind bars for political reasons in occupied Crimea and Russia," adds Matviychuk," and we always emphasize 'at least.' Not long ago I spoke with some Crimeans and they confirmed that the number of such people has grown but rights activists simply haven't come across them yet. We're about to look at the situation more closely and to verify this information."

However, since June 2016, not only has the number of political prisoners grown. On October 12, the Parliamentary Assembly of the Council of Europe (PACE) passed two resolutions on Ukraine that are connected to Crimea and Donbas. First, PACE condemned the annexation of the Ukrainian peninsula by Russia and confirmed serious violations of human rights in Crimea. Secondly, it emphasized the "independence of the courts," and the persecution and pressure bring put on Crimean Tatars living there. PACE went on to demand that repressions against residents who remained loyal to Ukraine be stopped, that the Mejlis be allowed to function properly as the representative body of the Crimean Tatars, and that the movement of prisoners from Crimea to Russian Federation territory cease.

PRESSURE ON THE CRIMEAN TATARS CONTINUES WITH THE APPLICATION OF ANTI-TERRORIST LEGISLATION, WHICH REFERS TO POSSIBLE MEMBERS OF HIZB UT-TAHRIR AND PARTICIPANTS IN THE DEMONSTRATION OUTSIDE THE CRIMEAN LEGISLATURE IN FEBRUARY 2014

At the same time, a 2017 UN report on human rights notes a huge number of "undesirable trends" in this sphere: ignoring the guarantee of a fair and just trial, using backdated criminal laws, and beating individuals who are detained. The UN also announced that it is now registering cases where people imprisoned in Crimea are being moved to jails in Russia, which is in violation of international humanitarian laws.

At this time, however, it looks unlikely that resolutions or appeals will actively influence the Russian government. What's more, in the year since the last prisoner exchange, it's not even known who the potential candidates are for a swap with Moscow. It looks like, so far, there has been no positive breakthrough in freeing political prisoners in Russia. The best example of this is filmmaker Oleh Sentsov, who is into his fourth year behind bars now. Famous actors, directors and human rights activists have all spoken on behalf of Sentsov, but so far the results are pretty much zero. Nevertheless, lawyers, activists and defenders continue the fight to release the Kremlin's captives. It's going to be a long and dirty fight.

Ihor Luniov:

"Our enemies no longer sleep tight"

The Ukrainian Week spoke to the commander of the Special Operations Forces on establishing the new unit and the future of Ukrainian Special Forces.

Interviewed by **Yuriy Lapayev**

Have the Special Operations Forces (SOF) of the Ukrainian Army been successfully formed? What has been done?
I have been leading the SOF for one year and five months. During this time, all objectives in the first phase have been completed: formation of headquarters, their staffing and the operational training of officers. Existing Special Forces and Information & Psychological Operations units were brought into this structure. Furthermore, in 2016 we formed four new military units virtually from scratch. We mainly focused our efforts on creating a training centre. It has been fully functioning since December and the necessary infrastructure has been established. It conducts the entire range of courses for training soldiers.

We should reach full capacity by 2020. The task for 2017 is to revise the regulatory framework in accordance with NATO standards. Although this is quite an unusual process, because everyone has a different understanding of "NATO standards". To this end, we are working with representatives of the Alliance. They are giving us invaluable help with the reforms. Of course, we also need both logistical and informational assistance, but we have learnt how to work effectively ourselves. So it's now a mutually beneficial partnership. We have unique experience that they are interested in studying, whereas we are adopting things from our foreign counterparts that are already setting us apart from Soviet Special Forces. A different way of thinking and different approaches to planning.

But the most important thing is that we are changing our mentality during both training and operations. We treat people differently. And all this is taking place amidst active fulfilment of combat operations. Shaping the image of new forces is a somewhat unusual field of work for us military men. In the beginning, when we did the first intake for the qualification course, nothing was organised quite the way it should have been. The task was completed, but with scandals and problems – there weren't enough students. Then we turned to our Western partners. They helped us to make a website and launched a page on Facebook. Promotional materials were developed that were distributed in enlistment offices and bases. Selection for the fourth course is taking place now, but we don't really have to look anymore: we have more than 20 candidates for each place. This has freed up many resources and makes it possible to choose who really is the best.

Are you still facing problems in terms of the legislative framework for the SOF?
The main difficulty is that there were simply no such forces in Ukraine before. But we're gradually moving forward according to the approved Formation and Development Concept. De facto, we are doing our job despite the inadequate legislation, refining it in the process. We were the first in the Armed Forces to complete development programmes for 2020 with all the necessary measures, timeframes and, most importantly, cost estimates.

Do these imperfections in the legislation not lead to a sort of unnecessary competition with other security forces, particularly during combat missions in the ATO zone?
It's not about competition, but the creation of an activity matrix where each unit takes its own place. We are at this stage now, synchronising processes so as not to interfere with other structures. When we have common objectives, we work together more effectively. There are already positive examples of this. As part of our initiative with the Security Service, we are conducting joint training sessions this year to establish a strict counter-intelligence regime.

The SOF is not only made up of Special Forces soldiers. What can you tell us about the Information and Psychological Operations (IPsO) specialists? Do they collaborate with government agencies or NGOs?
Indeed, Special Forces are a sort of brand. They are at the sharp end. However, the forces also include IPsO

PHOTO: STANISLAV KOZLIUK

Ihor Luniov was born in 1962. He graduated from the Odesa Artillery Command School. In 2001-2003, he commanded the 25th Airborne Brigade, later became deputy commander of Airborne Combat Training. He was one of the leaders of the defence at Donetsk Airport. Luniov has been head of the Special Operations Command of the Armed Forces since January 2016.

units and, given the seriousness of information warfare, it is difficult to overestimate their importance. Unfortunately, I can state that today we do not have dominance in the infosphere. This is primarily due to material factors: Russian media organisations have much more money and have been created for a specific purpose over many years. Our IPsO units have already had several changes of leadership, they were first assigned to Intelligence, then Moral and Psychological Support, and then they were attempts to create separate structures. At present, we have developed a concept for their use and defined the forms of operations. For the first time in the history of the Armed Forces, there was IPsO training this year that involved representatives of related units – the Security Service, State Border Service, the Moral and Psychological Support administration of the Armed Forces General Staff and civil-military co-operation units. Because of the nature of this event, NGOs did not participate. However, we are actively working with volunteers.

Have there been any changes to SOF operations after you received separate funding from the Ministry of Defence?
Previously, funding was minimal and not directed to us, but now our command is an administrator of funds under a separate Ministry of Defence budget item. We now have calculations on how much is needed for particular operations. Now everything is counted and we understand how much everything is worth. This increases our efficiency. Approaches to how these funds are spent are also changing. As an experiment, the Defence Minister of Ukraine allowed several units of the SOF to purchase their own equipment instead of the standard centralised procurement. Unit commanders made their own decisions on what they need and the necessary quality. The experiment was considered a success, so now each Special Forces regiment has been allocated UAH 5 million (~$190,000) to purchase equipment. This has never happened before.

Does the level of Ukrainian SOF units meet international standards, such as NATO? How do your colleagues from abroad assess our forces?
One of our units, the first to be trained according to the new standards and be adapted for activities with NATO forces, participated in the Flaming Sword international special operations exercises in Lithuania in May this year. Before then, Ukraine had only been represented as a combat component, but this time we prepared a unit that was formed according to the new personnel structure of the Alliance: headquarters, battle group, combat and logistical support. Our military performed real tasks at their posts in multinational units with their American, Lithuanian and Georgian counterparts. Some serious work was carried out. Following the training, the Ukrainians were positively assessed by NATO Special Operations Command.

In addition, this year we arrived at the training in our own Armed Forces aircraft for the first time. For our partners, this is an indicator that we are increasing our operational capabilities. Of course, a transition to NATO standards is not just about documents. You can reform and rename a tank platoon of, say, T-34s however you want, but they will never turn into Abrams. Above all, serious equipment with modern technology is required, as well as infrastructure upgrades. Indeed, work is now being done to develop an aviation component in the Ukrainian SOF. Not all NATO countries can afford this, but it greatly increases the effectiveness of the force. There is support on this issue from the General Staff, but at the moment we are looking for resources to complete this task.

When Special Forces are mentioned In Ukrainian society, the example of Israel's Mossad and especially its operations abroad are often discussed. When will the Ukrainian military be able to demonstrate something like that?
Unfortunately, in this matter we are again limited by current legislation. To work abroad, you need cover, physical resources and documents. Which is defined by the regulatory framework. I cannot report all the details of our operations, but I will repeat that the development of documentation does not interfere with actually completing missions. We have men that are motivated well enough to work even in such conditions. I can quite credibly and responsibly declare that our enemies no longer sleep soundly. In 2014, a reconnaissance group from a special operations regiment was ambushed while evacuating pilots. It took us two years to work out who betrayed them. We found him. We brought him in from the occupied territory. Now this person is under investigation. We do not forget and do not forgive – we will come for each of them. This is reality.

THE MOST IMPORTANT THING IS THAT WE ARE CHANGING OUR MENTALITY DURING BOTH TRAINING AND OPERATIONS. WE TREAT PEOPLE DIFFERENTLY. AND ALL THIS IS TAKING PLACE AMIDST ACTIVE FULFILMENT OF COMBAT OPERATIONS

What is being done to free SOF soldiers who are in captivity in the occupied Donbas?
We are doing everything possible to get them out, unlike the Soviet approach, when Special Forces were immediately abandoned in the case of their capture. This practice has been stopped. We are currently working on bringing them back home. This is our duty.

At the beginning of the ATO in 2014, special operations soldiers, as the most well prepared men, were sent to perform tasks that were not suited to them due to the lack of combat-ready units. At the time, this approach was called "hammering in nails with a microscope". Has this situation changed now?
Indeed, such a problem existed. I always recall a time when special operations men were used as an anti-tank reserve. And they performed the task. But now the situation is different. I had a conversation on this issue with the chief of the General Staff at the end of last year – he made a decision to significantly reduce the number of SOF soldiers in the ATO zone. Nevertheless, the readiness to return is literally measured in hours.

Martin Brest:

"Victory is not possible until the people start to truly love their military"

An infantry sergeant that blogged throughout his service on the frontline and has over 25,000 followers of Facebook, Martin Brest spoke to ***The Ukrainian Week*** about problems in the Army, the funding for soldiers and veterans, and his own search for comfort.

Interviewed by **Yuriy Lapayev**

What is it like to come back from the war? I mean the psychological aspect...
That's a military psychology issue, but I don't quite trust those who represent that field. I don't even believe in its existence. I know many psychologists, but it's about something else. If you want to come out of war, you shouldn't go into one. If you went there and took part in it, you will certainly change. When you come back, you will still be in a sort of wartime mode. This is not about everyone, but this happens to the majority.

Martin Brest, born in Horlivka, Donetsk Oblast, graduated from Kyiv Polytechnic Institute as a power engineer. He joined the 41st Motorised Infantry Battalion in the 6th wave of the mobilisation campaign, then was transferred to the 72nd Mechanised Brigade as a Sergeant. He started to work on the radio station Army FM after being discharged

At war, I grew a third arm, so to speak. I won't be able to get rid of it when I come back. So I don't have an answer.

You often go to the ATO zone even after you have demobilized from the Army. What does it mean to you?
I'm not a volunteer and I don't try to be one. I didn't enlist in the Army as a volunteer either. On the contrary, these (volunteering and military service – **Ed.**) are two separate routes. You either support the Army or serve in it. When I spent some time as a small-time volunteer, I realised at one point that I was simply deceiving myself. I just had to answer the question I asked myself: are you a man of war or not? If you're doing all this to be closer to the action, forget about everything and join the Army. That's what happened to me. Now travelling to the front and just the ATO zone is like returning home. I feel like I'm on a long holiday when I'm at home. It takes me a week and a half to readjust to normal civilian life. To get back into war, one night is enough. You wake up and you're fully there, ready to get on with everyday tasks. You realise that you are more comfortable there. It's a little selfish – I go there for my comfort. I make no bones about it: this is a sort of military tourism, at my own expense without causing problems for others. Sometimes, these trips come with some benefits for the military, sometimes they don't.

In one of your trips you raised the issue of wages not paid to one of the units. The servicemen got them in the end. Is this just normal civic-mindedness or more long-standing problems in the Army that constantly require outside intervention?
Don't overestimate my contribution. I just write a post on Facebook* – there are hundreds and thousands of us. I really didn't do anything – the most I can do is express my opinion on a free social network. The stars aligned: I wrote about it and the minister read it. I'm not a mission, I can't solve all the problems – maybe next time the minister just won't read my post. The salary accounting process in the Army, especially for tours of duty, is very confusing. If we try to work it out and get to the bottom of it, we will sooner or later end up at Parliament, because the respective legislation should be changed. Work on wage payments was perhaps

In April, Martin Brest wrote a post about delayed tour of duty and battle payments to the servicemen of one of the frontline brigades. This caused public outcry; Defense Minister Poltorak responded to the post.

not efficient or quick enough, but it was being done. In addition, I didn't do the calculations and collect the necessary documents myself – the military agencies did. I am glad that this happened, but I can't take the credit. I have already got over the "celebrity syndrome" and take it in my stride now. I don't fix these problems, the relevant people in certain positions do. Of course, there is always temptation to think that you can do something and influence things. That the Army currently employs about 300,000 people and when they can't cope, here I am, a sort of crisis manager solving everything through Facebook. But that's not the way it actually works.

In my fifteen months in the Army, I lived with my eyes wide open. I am a civilian and was curious to know how it all works, who is responsible for what. I didn't sit there and wait for my discharge but tried to understand things. Because if you don't think at war, you'll lose your head or start drinking very quickly. So I am a bit clued up about the regulatory documents and understand what the problem was. Most importantly, this conflict helped develop an algorithm with the rear services that will simplify and speed up wage payments. Now these soldiers have started to receive the wages that are very important for them. Some people complain that only "laborers" join the Army. But that's not bad. For the men I see there, UAH 7,000 hryvnias ($270) from the Army is a real chance to get on their feet. Some may not have decent work in their villages and can't go to work in the cities for a higher wage because they lack education. In the Armed Forces, they will earn for their futures: some for weddings, others for studies. No matter how strange it sounds, the Army and the frontline is now an island of stability and hope. That's why I got involved in that incident, because this money is very important for the soldiers. Anyway, the funds were there, they didn't go anywhere, they just didn't get to the right place because of someone's negligence.

You didn't get any threats after that?

Of course not. I don't fight against the Army. I don't infringe on anyone's interests. So how can there be any conflicts? That would be if I had something against smuggling... But I have my own, somewhat unpopular opinion: I am not against it. I sat and watched what was taken along the Mariupol–Donetsk road. Chicken. Not weapons, not drugs. It's not my problem. Let specially trained people deal with this.

In general, I understood that there is no need to try to solve problems in the Army. Because sooner or later you will end up giving instructions to the General Staff. There are more than 700 people there, so you can't be cleverer than all of them – it's just technically impossible. Of course, you can write on Facebook that "A seventh wave of mobilisation is needed" but that's it. The General Staff has people with calculators who know for sure whether it is necessary or not. Solving any one problem will not increase the number of professional soldiers and will not lead to victory in the war. Victory depends on other things. Now I'm starting to sound like a "military expert", which I'm really not.

Still, what does it take to win the war?

I can't speak for the entire country, so will touch on a topic that is closer to me. One of the crucial points is government contracts to create military-themed Ukrainian patriotic content for radio and television. Victory is not possible until the people start to see their Army in a positive light and truly love their military. For now, people don't like the Army. It's enough to turn on the TV news – it's usually negative. We need high-quality films and documentaries, interesting series about the armed forces. Preferably from independent commercial production studios. Television rules the world. Whatever it says, that's what people will think. For now, it's unclear why the country has UAH 20 million hryvnias for pseudo-WWII veteran NGOs but doesn't have anything for patriotic cinema. War is always about money.

You try to help soldiers who are now at the front in different ways. But then you return to the capital and see events like clashes with ATO veterans in Kyiv and Dnipro on 9 May as signs of revanchism. What should be done about this?

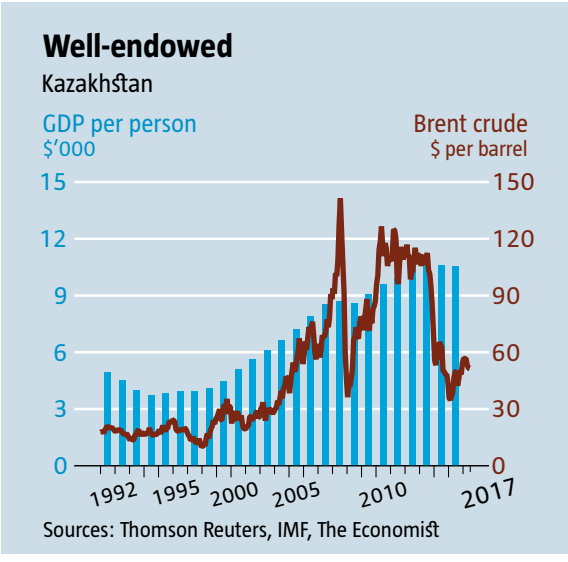
The revanchism of Russia? We weren't Russia. We were more or less under its influence. So I don't want to say that Russia is taking revenge: we didn't lose the war to them. The revanchism of political parties? I don't want to get into this subject. Half of them just change their stripes to match current interests anyway. Revenge of the titushky? They were just a tool – ordinary people who were paid. They make money that way and such people exist in all societies, although they are fewer in sound ones, of course. As for veterans, today, unfortunately, they do not constitute a real force capable of organizing themselves and defending their interests. On 9 May the police barricaded veterans in a building in Kyiv – the next day, theoretically, all 20,000 ATO veterans from Kyiv Oblast should have stood outside the police station. No one came. In Kherson there was a pro-Russian rally: veterans went to see what was going on and stopped it. Good. But why did they have to go? Are there not enough locals to do that? In Dnipro, about 50 people came out after the May 9 in a city of over one million. At the moment, there is no unity among veterans. But negative circumstances are kickstarting the process of unification. In Kyiv Oblast, there are nearly 400 veteran organisations, which, in my opinion, is 390 more than they actually need. And they mainly work on securing benefits for war veterans. It is necessary to set higher goals.

IF YOU WANT TO COME OUT OF WAR, YOU SHOULDN'T GO INTO ONE. IF YOU WENT THERE AND TOOK PART IN IT, YOU WILL CERTAINLY CHANGE. WHEN YOU COME BACK, YOU WILL STILL BE IN A SORT OF WARTIME MODE

Kazakhstan: the crossroads of the new Silk Road

The world's biggest landlocked country is open for business but only half-ready for it

WHEN an authoritarian ruler builds a gigantic dark globe, he should not be surprised that people call it the "Death Star". But whereas the Death Star from "Star Wars" was a tool for wiping places off the map, the Kazakh pavilion at Expo 2017, which opened in June in Astana, Kazakhstan's capital, is supposed to put the Central Asian country of 18m on the map, especially for investors. The Death Star celebrates traditional forms of Kazakh hospitality, such as giving guests a warm coat, or a sheep's head for supper. A shopping mall named after the old Silk Road offers fancy souvenirs. Kazakhstan is at a crossroads, both literally and figuratively. Geographically, it is sandwiched between Russia, China and the Middle East, astride once and future trade routes. The president, Nursultan Nazarbayev, is eager to turn this location to Kazakhstan's advantage, by joining China's "Belt and Road" programme of new transport links between Asia, Europe and Africa. Over the past two years Chinese cash has created a massive freight-rail hub at Khorgos, spanning the border between the two countries. Xi Jinping, China's president, visited the Expo on June 8th, and purred that the two countries should be "partners forever". The other crossroads is historical. Kazakhstan has a choice: open up or stagnate. This is not easy, given how much the country has suffered from foreign domination in the past. The Soviets forced nomadic Kazakhs into collective farms at gunpoint, wiping out a quarter of the population. They used Kazakh territory both as a gulag and a nuclear testing ground, deliberately exposing children to radiation to measure its effects.



NO NOMAD IS AN ISLAND

Few expected an independent Kazakhstan to thrive, but it has done better than any of its Central Asian neighbours. That is thanks mainly to gushers of hydrocarbons. Oil and gas accounted for 58% of exports last year; the mammoth Kashagan oilfield is one of the biggest discoveries in the world in recent decades. But reasonably competent government has also played a part. Real output per person rose from $1,600 in 1990 to $14,000 in 2013 (see chart). Mr Nazarbayev, who has been in charge since Soviet days, spent much of the windfall conjuring Astana out of a patch of nearly deserted steppe. The move to the new capital allowed the civil service to marginalise many crusty old hands, who stayed behind in the previous capital, and to promote young modernisers, who moved.

FOR MOST KAZAKHS, FREE ENTERPRISE IS A NOVEL CONCEPT. NO ONE CAN REMEMBER A TIME WHEN THE STATE DID NOT DOMINATE THE ECONOMY. MANY FIND IT REASSURING

In the past three years the oil price has crashed and Kazakh belts have tightened; economic growth has fallen from 6% in 2013 to 1.1% last year, though the IMF expects it to recover somewhat this year and next. The government dipped into the national pension fund to cover some of the costs of Expo, infuriating many. "Have you seen our pension money exploding?" grumbled one Kazakh after the opening fireworks display.

Samruk-Kazyna, the Kazakh sovereign-wealth fund, is planning to sell shares in the firms it controls. Kazatomprom, the world's largest uranium producer, will probably float up to 25% of its shares next year, says Baljeet Grewal, a director of Samruk-Kazyna. The next big offerings will be of Air Astana, the national carrier (of which BAE, a British firm, owns 49%), and KazMunaiGas, the state oil and gas giant, perhaps in 2019 or 2020, she says. The prime minister, Bakytzhan Sagintayev, sounds admirably pro-market: he calls state-owned firms "dinosaurs" and talks of the need to allow more competition.

Between 2016 and 2017 Kazakhstan jumped from 51st to 35th place on the World Bank's ease of doing business rankings, with big improvements in how straightforward it is to get construction permits or electricity. A digital portal for basic interactions with the state has curbed low-level corruption. Officials used to demand bribes from applicants for business permits. "But now

Big plans. When the Expo is over, the site will become home to the Astana International Financial Centre, a would-be regional stockmarket and financial hub

it's better," says an entrepreneur who runs a dance studio. The president vows that, by 2025, the country will switch to the Latin alphabet, since English is the language of global commerce (and perhaps because dumping Cyrillic script is one in the eye for the Russians).

When the Expo is over, the site will become home to the Astana International Financial Centre, a would-be regional stockmarket and financial hub. Firms operating there will be subject to rules based on English common law, enforced by independent courts, the government promises. The aim is to reassure investors, who might otherwise be nervous of sinking money into a country that scores as badly as Russia on Transparency International's corruption league table.

All this sounds good. But Kazakhstan has been promising big privatisations for seven years, yet has delivered only small ones. The banking system is rickety. Oligarchs will labour mightily to block reforms that harm their interests. Foreign investors may not believe assurances about the rule of law, since this "depends on the word of one man", as a local analyst puts it.

Another problem is that, for most Kazakhs, free enterprise is a novel concept. No one can remember a time when the state did not dominate the economy. Many find it reassuring. Consider Yezmek Kazhenov, a typical entrepreneur. On discovering that apples originated in Kazakhstan, he decided to grow the fruit to make jam, juice and sweets. He bid for a plot of state-owned land, not with money, but by showing a bureaucrat his business plan. He was given the land free of charge. The state will pay 35% of his workers' wages for the seven years it takes his trees to reach maturity, and will build a road to help him get his crop to market. He is delighted; this allows him to carry on running two cafés in Astana, more than 1,000km from his orchard. He is also looking for a white-collar job with a salary. One can see why a sparsely populated petrostate would pay its citizens to occupy land that its neighbours might covet. But such coddling is unlikely to foster efficiency.

Hoping to raise productivity, the government last year passed a law allowing foreigners to rent farmland for up to 25 years. This sparked mass protests—Kazakhs fear that Chinese multitudes will occupy their empty land and never leave. The government was forced to put the plan on hold. For the same reason, it has been reluctant to let in Chinese labourers to build Belt-and-Road infrastructure. Kazakhs are also nervous of Russia. Vladimir Putin has claimed the right to intervene wherever ethnic Russians are in trouble, and a fifth of Kazakhstan's population is Russian.

Kazakhstan's government is nowhere near as abusive as some of its neighbours. But dissident media are crushed, criticism of the president is taboo and Mr. Nazarbayev was re-elected with 98% of the vote in 2015. He turns 77 on July 6th and has no clear successor. Last year he appointed his daughter to the Senate, prompting speculation that he is grooming her for the top job. "The transition has started," says an observer in Astana, citing new draft amendments to the constitution. These would reduce the powers of the presidency for any successor, while maintaining Mr Nazarbayev's unique status as the "First President". As such, he is forever immune from arrest or even from having his bank accounts snooped on.

The foggy future

Michael Binyon, London

The mood in the UK as the Brexit talks start

It was a 91-year old woman who summed up Britain's widespread anger, sense of tragedy and loss of respect for government and authority. The country, she said, was in a "very sombre national mood". There have been four terrorist attacks in four months, a general election that left the government weak and floundering, the opening of difficult and divisive talks with the European Union and a terrible fire in London that killed around 80 people in a tower block that housed mainly immigrants and poor people.

The person who summed up Britain's frustrations and fury was the Queen. She now appears to be the only national figure still to command widespread respect. The general election on June 8 has left the Conservative government without a majority, and has dealt a fatal blow to Theresa May, the prime minister, who now become a figure of derision even within her own party. Struggling to reassert her authority, she has seen her popularity plummet to a record minus 34 points, and is unlikely to survive more than a year at best. The government has been forced to abandon almost all its planned programme for the coming five years and is stumbling along day by day. George Osborne, a former senior minister and colleague, has called her a "dead woman walking".

Everything seems to have gone wrong for Mrs. May. The terrorist attacks, including a revenge attack by a white man who tried to kill Muslims outside a mosque last week, have left the country jumpy, nervous and divided. Mrs. May promised firm action after the suicide bombing in Manchester and the random stabbing of pedestrians in a market by Muslim terrorists in central London. But no new plans have been announced on how to prevent terrorism. Instead, the prime minister was blamed for cutting police numbers.

She has also been blamed for the tardy and chaotic official response to one of the worst fires even seen in Britain, when a tower block became an inferno because it was badly and cheaply refurbished by a rich Conservative local

council that decided to save money by not using fireproof building materials. Mrs. May was too scared by the angry survivors to meet the local residents, and many had to wait days before any government help was offered. It was left to the elderly Queen to make a personal visit to the blackened tower block and talk to the victims.

Fires and disasters happen in every country. But this one has had sharp political consequences because it has highlighted a deep social malaise in Britain. London is a wealthy city, but government austerity has particularly hurt the poor. The rich still live well. But inequality has been growing. The housing blocks for immigrants and the poor are often below standard. No one paid attention to warnings that some tower blocks are a major fire risk. Nothing has been done to help young or poor people who cannot afford London's very high rents. Real wages for ordinary workers have fallen, but the bosses of big companies have doubled or tripled their own salaries. There is a general feeling that the raw capitalism of the Thatcher years, when state provision was cut back, has led to a very unequal society. "Greed is good," entrepreneurs used to say in the 1980s. The consequences are not.

The austerity imposed on the country after the 2008-09 economic crisis has barely affected most businessmen. Rich foreigners, especially Chinese, Russians and Nigerians, have paid millions for smart houses in London and other city centres that are bought as investments and left empty. But Britain's vaunted national health service has run out of money and cannot meet the demands of the sick. Businessmen are living well, while teachers, nurses and those who lost jobs in government budget cuts are finding it hard to survive. A shocking statistic this week showed that Britain has the highest infant mortality rate in Europe after Malta.

This angry social mood was partly responsible last year for the vote to leave the European Union, which was often a protest vote by those living outside the rich south-east. It has fuelled racism and hostility to immigration. It also led to an unexpected surge in support for the opposition Labour party and its left-wing leader, Jeremy Corby, at the election three weeks ago. And now all these frustrations have come together in opposition to the government, and especially to Mrs. May, who is a stiff and inarticulate person, unable to respond spontaneously to the changing national mood.

The result is that she is weakened at the very time when Britain needs firm leadership in order to undertake Brexit negotiations that are likely to be harsh, protracted and leave Britain poorer and insecure outside the European Union. The Brexit arguments have flared up again, with businessmen saying they are being ignored and economists warning that standards of living will fall. Those who campaigned for Britain to leave the EU have fallen silent, while those who want an end to austerity are warning that there will be no money to pay for the reforms needed to lessen inequality.

The official negotiations on leaving the EU began on Monday. But already the Europeans are complaining that the British side is unrealistic about the kind of deal they expect. Mrs. May still insists that the priority is to stop immigration from the EU. Her own finance minister argues that the priority must be to protect Britain's economy. She made no secret of wanting to sack him after the election. He is now angry and defiant. But now she has no authority to challenge any of her senior ministers, who are quarrelling among themselves over how the Brexit negotiations should be conducted.

BRITAIN IS UNUSED TO POLITICAL CHAOS. IT HAS LONG PRIDED ITSELF ON HAVING AN OLD AND DEEP-ROOTED DEMOCRACY AND A TRADITION OF POLITICAL TOLERANCE. BUT THIS APPEARS TO BE BREAKING DOWN

The general mood of uncertainty, compounded by rising social dissatisfaction, has led to a climate of uncertainty. This is the worst of all worlds for business or stability. As confidence falls, a vicious circle begins. The pound has dropped sharply in value. Investment is falling. Inflation is rising. Living standards are likely soon to see a sharp downturn. Mrs. May, without charisma or personal authority, is struggling to respond.

The immediate challenge for her is to form a government with a majority. She had hoped to persuade the 10 members of parliament from the Democratic Unionist party in Northern Ireland to back her. They have been negotiating for almost two weeks, but have made demands are politically unacceptable in return for their support. The opposition Labour party does not have enough seats, even with the support of the Scottish nationalists and other smaller parties, to form a government. The result is deadlock and stalemate.

Britain is unused to political chaos. It has long prided itself on having an old and deep-rooted democracy and a tradition of political tolerance. But this appears to be breaking down. Britain is now looking enviously at the political stability in Germany and the revived confidence the newly elected President Macron has brought to France. Once a country loses its own self-confidence, every problem becomes larger. Only the Queen seems now to represent tradition and stability. But she is 91 and has no political power whatsoever. The mood, as she rightly diagnosed, is indeed sombre.

PHOTO: ANDRIY LOMAKIN

Gerardo Ángel Bugallo Ottone:

"The image and ideas we project and discuss today are not dissimilar to the ones discussed during WWII"

Interviewed by **Anna Korbut**

Ambassador Extraordinary and Plenipotentiary of the Kingdom of Spain to Ukraine spoke to ***The Ukrainian Week*** on the place of his country in the EU, the factors that help the Spanish remain eurooptimists, the responsibility of the elite and intellectuals in politics, and the potential in Ukraine-Spain relations.

How is the EU and its future seen from Spain?

The EU is the most successful experiment in international relations ever. And it is amazing to think how much something so successful is criticized. An EU representative once said that people talk about huge bureaucracy in the EU. But that, he said, is about half of bureaucracy at the Birmingham guildhall.

Why is Europe perceived as a bureaucracy? Because the approach we have to problems and reality in the EU is very bureaucratic. We have a beautiful anthem and flag, but we don't use them. We don't have the idea that could move hearts and minds, elicit the idea that we are working for something in the souls of the people. This is more of a philosophical issue, but it translates into a political problem. And a serious one: if you don't try to elicit enthusiasm of people for big ideas or enterprises, they change mentality.

Look at the military field, the idea of defense of Europe: in reality, we have enormous economic, technological, demographic and cultural power. But we have serious weakness in will. We are now talking of the need to increase military spending across NATO. But I don't think the problem is the amount of money that is spent. It is rather the idea of what you want this money or military power for.

Probably the best litmus test for that is Ukraine. It is the only country where people have died for that flag; we know how indisputably authentic their will for dignity is. The EU – the countries that share the same values and ideas – has to address this not only from the moral perspective. It would be also quite stupid not to do. Luckily enough, our ideas, values and interests are in the same place. The idea of a prosperous Ukraine is good news for everyone. Including Russia, by the way. While a problem of the size of Ukraine would definitely not be good for anyone. So, stakes in Ukraine are extremely high from the moral, ethical, political and economic viewpoints. The success of Ukraine is the success of Europe. This is how we can project the idea that we are doing this for something: not just to live for some extra money at the end of the month, but for a decent life, a political life that elicits the moral fiber of society.

The vibrant civil society in Ukraine is a lesson for us, seeing how people mobilize and interact when they know that they need to overcome the terrible legacy of corruption. They have this sense of responsibility. Luckily, it is becoming more and more obvious for the population in the EU. Look at the latest election in France: the concept was not very much unlike the Maidan. It is the grassroots impulse that appears when politicians are not up to the task, but a country has a civilized and cultivated people, the human capital that finds the way out. It is a fight between common sense and an outlandish accumulation of partial solutions, not integrated into context or viable for society.

In that sense, Spain is another example of this common sense gaining ground. You know how difficult its economic situation was in 2010. Now, Spain is recovering seriously. We have had scandals of corruption that have eroded faith in politicians and government. But the results are there. So the general framework of how to rule and develop society is obvious: it is common sense.

Where do you see the sources and the agents of this will and inspiration in Europe today? Is it in the young generation, sensible segments of society, institutions or something different?

It's a difficult question. It should come from a call to common sense that we have seen appear somehow previously.

When I think of how unaware or not proud of the success of the European project we are, that leads me to the question: what role in societies that evolve - and they always do - is played by the intelligentsia? Not so much in the sense of the most brilliant intellectuals, but the low-brow stratum, the popular culture. The values that are present in popular culture are essential because they are what drives people. To illustrate that, I use the example of the effort that the Hollywood took during World War II. It started in a private house of Edward G. Robinson in 1938 with a group of important actors who realized what menace Hitler and Nazism represented for Jewish people at that stage, and gained much more impetus when the US joined the war in 1941. The effort produced numerous masterpieces. I always refer to Casablanca, but it was not the only one. These people tried to convey to the world what the fight was about, what ideals were at stake, even if that society had a set of its own problems, such as racism. But that's another question.

The image and ideas we project and discuss today are not dissimilar to the ones discussed during WWII. Now, however, we don't see any sort of mission, nobody is broadcasting these ideas with a sense of importance. Nobody is taking responsibility for making people aware of what is at stake.

FOR US, THE IDEA THAT WE ARE PART OF EUROPE IS NOT IN QUESTION ANYMORE. WHAT EMERGES IS A GRADUAL UNDERSTANDING THAT WE HAVE MUCH MORE TO OFFER TO EUROPE THAN IS REALIZED IN EUROPE OR IN SPAIN

In that, we need the help of those who create popular culture. They have not been up to the task. Of course, there are projects and actors that try to promote values. But the idea that the whole society can transform itself through the values permeating popular culture is still not there.

Another problem we have is that politicians all throughout Europe and the West try to rule by polls, to cajole people by following what they think these people already want. Yet, the whole idea of politics is to come up with your ideas, present them to people and ask them to vote for you.

There is a huge constituency for that. The problem is that this constituency has long been fed rubbish. The irresponsibility of some of the political ideas that have been used in Europe is striking. The absence of a craving for enthusiasm, the lack of efforti to mobilize people for greater tasks is disastrous. Not only because it's morally wrong or disappointing. But because it reveals a lack of understanding of what makes people happy. People are not happy because they can have more food. They are happy when they get mobilized for a purpose.

Also, commonsense societies have been manipulated through some sort of political correctness that often obliterates the real debate. The only way to recuperate that is to reconcile ourselves with reality.

Gerardo Ángel Bugallo Ottone serves as Ambassador of the Kingdom of Spain to Ukraine since 2013. He started his diplomatic career in 1984. He previously served in Spain's embassies to Algeria, Hungary and USA. Ambassador Bugallo was Vice-President of the North America Department at the Spanish Ministry of Foreign Affairs and served as Counsel for Spain's Prime Minister Cabinet. In 2002-2004, he was Director General on Foreign Policy for the Asia-Pacific Region and North America at the Spanish Ministry of Foreign Affairs. In 2004, he became Deputy Permanent Representative of Spain to the UN in Geneva.

I would quote Ortega y Gasset who wrote *The Revolt of the Masses* 80 years ago – that work is much more current today than it was at that time. The idea is that we have to reclaim the concept of excellence, of personally trying to be better than the day before. Ortega denounces what he calls the "man mass" where one doesn't have to be better than he is, there is no aristocracy in the etymological sense, and there is no better or worse. This has permeated our societies.

Even the level of hypocrisy, a tribute that vice pays to virtue, is too low. When someone is a hypocrite, he is bad but at least tries to pretend to be good. But when there is a point of aberration where one doesn't even pretend to be good, that's when we're seriously in trouble.

How would you define the place of Spain in the EU now? How has it changed?

Given its size, both geographically and demographically, Spain's role should be bigger than it is. The connections Spain has with America make it a very special country. Also, the reality of the Spanish language is absurd to ignore, even if it's not always recognized enough in the EU.

The best contribution Spain can offer to the EU is the importance of common sense. When you look at the Spanish democratic transition, the first general elections after the death of Franco, more than 500 parties were running. Yet, people voted for 3-4 logical options. That proves that the real conductor of the Spanish transition was the Spanish people voting in a show of common sense.

It has been distorted through some propaganda, manipulation in the media, especially TV. But in the end the Spanish people have demonstrated a tendency to strong common sense. Now, that contribution is shown in Spain's reasonable role in the various debates on the EU. People are beginning to recognize that around Europe.

Before the crisis Spanish companies used to have **20%** of their market out of the country and **80%** inside. It is exactly the opposite now

If we were more listened to, it would be better. One small example from the energy map of Europe: Spain has insisted on the need to diversify our sources for a long time, including the use of gas coming from North Africa, the improvement of interconnections of our systems and of the energy system in Europe. This is perfectly common-sense. The same is true about the relations in the Mediterranean, with the US and South America.

Other countries also say that they would like to be heard more. They have been turning skeptical about the EU. What makes Spain remain eurooptimistic?

It depends on what countries you compare us to. But I'd say that we have seen the results of what being part of the EU has been - they are absolutely obvious in Spain. And, despite of everything, the common sense I mentioned makes us understand that this joint enterprise is very much our own. The essential core of what defines Europe is the essential core of what defines Spain.

For a time, in the late 19th and 20th centuries, Spain was considered an outcast by the emerging powers in Central Europe. There was a debate in Spain on whether Europe was important for it. But it is absolutely over. For us, the idea that we are part of Europe is not in question anymore. What emerges is a gradual understanding that we have much more to offer to Europe than is realized in Europe or in Spain.

When Spain was hit by the 2007-2008 crisis, it had to go inward and focus on itself. Now, that the country is recovering, how does Spain define its foreign policy ambitions in the near to mid-term future?

If you consider the international society as a theater, there is a front row there. One of the places in this row corresponds to Spain based on the criteria I mentioned above. Sometimes, a latecomer tiptoes to the front and sits there, surprising everyone. Similarly, other countries are sometimes surprised to see Spain playing the role which they are not used to. We have had our ups and downs, the last one being the economic crisis. But the more we get out of it, the more obvious it becomes that this seat is waiting for us. The way to do it is to proceed there according to your capacity, i.e. to not over -- or underdo it. It's not easy. You have to not pretend to play a bigger role than you can. At the same time, you have to fulfill the role you are up to completely. I think this requires common sense and real values in society.

Before the crisis Spanish companies used to have 20% of their market out of the country and 80% inside. It is exactly the opposite now. This incredible transformation is an example of the capacity of the real Spain, its society. It has to be achieved through common sense in politics and the game of freedom in economic terms. Allow people and companies to grow to their full capacity -- and they will find the market.

It's not much unlike what is happening in Ukraine: if human capacity this country has is allowed to develop, success is guaranteed. But you have foreign countries trying to stop the evolution of Ukraine, and the obstacles of corruption and oligarchy trying to stop the capacity. I may be a pathological optimist, but I don't think you can stop forces like that in history.

What role have Spain's elite played in that ability of society to make commonsense choices, and in the fact that the country keeps finding ways out of its difficulties?

We should define what we mean by the notion of elite. When I was posted in Budapest in 1987-1990, I received the visit of a prominent political figure in Spain and a respected writer, the then Education and Culture Minister Jorge Semprun. He told me that distinguished intellectuals in Hungary asked him what intellectuals in Spain were saying about the developments of that time. He then asked himself: who were those intellec-

tuals in Spain? And how do we understand what is happening in Eastern Europe?

I recall that because I find it confusing to see that many intellectuals in Europe don't understand some of the things I observe, such as what is happening in Ukraine today. This lack of sensitivity is surprising for me. But I think this is because when history accelerates, it reveals a cynical approach (practiced by many experts) that comes from the fact that they don't understand anything. Instead of adapting to the new reality, they try to impose their cynical approach on the new reality. The stereotype example could be Henry Kissinger.

When the Berlin wall fell down, you had to see the reaction of many people in the US, for instance: they simply didn't understand what was going on in that period. In many aspects, it's not dissimilar to what's happening around Ukraine.

The role of the elites is the role that has been diminished in general, as I mentioned before. There is no sense of aristocracy – in the etymological sense, I insist. There is no admiration of intellectual value in societies. On the other hand, there is no feeling that intellectuals are politically responsible for what is happening around. When we were bringing Mario Vargas Llosa to Ukraine, I told him: I know you're very busy, but as someone aware of your intellectual and political responsibility, I'm sure you can't be indifferent to what's going on in Ukraine. He came right away without asking a single penny just because he felt attached to the developments. That is an example of an engaged intellectual.

The problem is that, in our minds, we often have almost an old-fashioned concept of an engaged intellectual: as someone who was meant to be responsible to the party, follow the orders of the party. While here I'm talking about an intellectual who is responsible for what his work produces in society.

The most responsibility probably lies with the low-brow culture: the politics and aesthetics that impress society to the core in a widespread manner. High-brow will still be there: you can have fantastic opera or museums. But that doesn't change societies. What really affects societies is the low-brow culture. And there we have a complete lack of the sense of responsibility and engagement in what is at stake.

Where do you see the relations between Ukraine and Spain underdeveloped?

All over. The potential is huge because we have lived too far apart for too many years. Spanish public opinion is among the most favorable to Ukraine among the EU nations. From the political and government perspective, we support Ukraine's sovereignty and territorial integrity without hesitation. What we lack is the presence of that other part of Spain I mentioned above – the economic power that has gone out of Spain but came only timidly into Ukraine, has seen the horror that corruption is and has run away. Some have had very bad experiences here.

But I'm sure, as the rule of law evolves here and people feel more secure about investing in this country, there will be huge development of our relations in the future. What our companies do very well is what this country needs: infrastructure, energy, including renewables, defense sector. There are many sectors in which we are condemned to collaborate. But this hasn't happened because we have faced the difficulty of not yet trusting the rule of law in Ukraine. I have been trying to dispel this image, but it's not very easy.

Over your tenure here, have the political contacts between the countries evolved?

They have changed dramatically since Viktor Yanukovych fled the country. We started having the relations between two countries that hadn't been there before.

Formally, we had good relations with Ukraine all the time because we don't have any bilateral problems. What has changed is the identification on the level of political parties, including in the European framework, through international parties working together more and more in Europe. There is honest cooperation in the sense that we understand each other. And we understand the need to defend Ukraine as a European frontier.

I'M SURE, AS THE RULE OF LAW EVOLVES IN UKRAINE AND PEOPLE FEEL MORE SECURE ABOUT INVESTING IN THIS COUNTRY, THERE WILL BE HUGE DEVELOPMENT OF OUR RELATIONS IN THE FUTURE

Are there any misleading stereotypes about Spain that you have noticed in Ukraine – on the public and political level, that you would like dispelled?

I don't think there are any. In any case, any perception of a given country has some truth about it. Take a torero as an example: the phenomenon builds on some sort of reconciliation with death in the Spanish culture. It is present in our culture, and it is in the bullfight too. A famous bullfighter has been killed recently. Whether you like or dislike bullfighting is one thing. But the seriousness of what is at stake in the bull ring every afternoon is absolutely striking if you look at it with open eyes. I wouldn't waste time dispelling this kind of stereotypes.

As for Ukrainians, there are a lot of them living in Spain. So the misconceptions on the country are not too widespread: more and more people know Spain, and more people like it, I think. As much as we like Ukrainians: when you look at more than 80,000 legal Ukrainian immigrants and probably many more illegal ones, they have a very good image.

I hope that it's a matter of time before these two realities can be brought together in the economic dimension as well. Before this political and personal sympathy translates into meaningful developments in the economic field that would create stronger ties, and transform into even more political and personal sympathy.

Riding the currents

Oleh Repan

The origins of Dnipro, the city and its name

Modern economics says that providing services is a profitable business. However, this is hardly a new notion. The ancestors of modern Dniprians established themselves a city where it was possible to make money, if not from thin air, then certainly from the combination of earth and water.

THE GENERAL SECRETARY'S DATE

What does anyone really know about the emergence of Dnipro, or Dnipropetrovsk until recently? In official documents and even on the banners on the central avenue, which was named after Dmytro Yavornytskiy, the date is 1776. But this number has about the same relationship to the birth of the city as a husband's name taken on by a young woman has to her own birth. Who established this official date? None other than Leonid Brezhnev. He was born there and much of his career is tied to the city and the oblast.

At one point, Brezhnev's jubilee spurred the then-municipal government to be creative in preparing a pleasant gift: they brought the General Secretary the jubilee of Dnipropetrovsk—which meant changing the official founding year from 1787 to 1776. The basis for this new number was the foundation plans for Katerynoslav-Kilchenskiy, also known as Katerynoslav-1, which were found in the correspondence of Azov Governor Vasiliy Chertkov. Interestingly, despite the modern-day city's size, it still has not expanded to encompass the territory where this Katerynoslav-Kilchenskiy was built. The 200th anniversary in 1976 was convenient: the city was given funding from the budget for a wide range of projects and its council ended up looking very good indeed.

THE EMPRESS'S DATE

Ultimately, both these years, 1776 and 1787, come from another invention that was a weapon in Russia's late 18th century hybrid war against Ukrainians. The point of this mythology was simple: here, on the lands of the Zaporozhian Kozaks, barbarism reigned, but when "Mother Yekaterina", i.e. Catherine II, came along, "Russkiy mir" brought civilization and the good life. These were the bricks and mortar of which was made the foundation for the Russian Empire to dominate Ukrainian territory. After all, it's not enough to vanquish the people: force your own version of history on them and you are free to do with them what you want.

This kind of ideology is also dangerous because Russians themselves believe it. In 2012, locals found themselves locked in debate with Russian academics that came to Dnipro to celebrate the 225th anniversary of Catherine [Yekaterina] II's visit to the Ukrainian steppe. All these professional historians sincerely believed that Dnipro was a Russian city to its very roots.

Artifacts from the time before the arrival of the Russian Empire

So let's look at what we get when we tear off the layers of imperial ideology. The thing is that modern-day Dnipro is a very busy communication hub. For a settlement to arise naturally—and eventually become a city—, there have to be routes and, what is imperative, natural barriers along them. Here we have the confluence of two great rivers: the Dnipro and the Samara, and somewhat below the mouth of the latter, the first rapids begin. This meant that, prior to the building of the reservoirs and the flooding of the rapids, the waterway to Dnipro meant a mandatory stop at the town, rest, repair work, cargo servicing, and so on.

When waterways are the main traveling route, they form a barrier to land routes, which means you need someone to carry things across them. The town itself was the crossroads of very important land routes that connected Right and Left Bank Ukraine, Crimea, the Don, Moldova with access to the Central European and Muscovite markets to the north and the Balkans, Caucasus and Anatolia to the south.

The most important crossing over the Dnipro was at Kodak, where the eponymous city towers today. Since nature is hard to fool, the second crossing, Lots-Kamianka, was where the Southern Bridge was eventually built. On the left bank, the biggest, although not the only crossing over the Samara ran on the outskirts of the modern-day town of Shevchenko, in the city's Samara District. Imagine you are a merchant. You've been wending your way across the steppe and finally arrive at the crossing. Without any doubt, this will cost you something: customs and the services of the ferrymen. But since you have to stop, one way or the other, likely you will want to eat and drink, to spend the night under a roof, and to take care of your horse and repair your wagon. In short, you will need plenty of services and so the ancestors of modern-day Dniprians provided them.

Moreover, both banks of the river were settled, in order for the wealthy customer to be able to spend money in the greatest of comfort! And so Stara Samar and Odynivka arose on the Samara's banks, the Noviy Kodak and Kamianka-Livoberezhna at the Kodak crossing, and Lots-Kamianka and Ust-Samara lower yet. And so that the conveniently located land between them did not go to waste, people established Manuilivka, Taromske, Diyivka, Sukhachivka, Polovytsia and so on. All these villages were from the Kozak era. All this vibrant economy is completely ignored by the city founding dates currently in circulation.

IN SEARCH OF A FOUNDING DATE: THE ARTIFACTS

So when, exactly, did Dnipro start? Let's try to understand the material arguments and the methodology. For a time, it seemed to make sense to start with Noviy

Stara Samar. A reconstructed image by Oleksandr Kharlan

Kodak. The arguments in favor make a lot of sense: a town with an important fortress situated at a major river crossing, and it's the capital of the Kodak Palanka[1]. The colonel's residence was there, taxes were collected and the courts handed down judgments there. In addition, the town shared the local district with the future town of Katerynoslav, and the institutions of the Katerynoslav Povit[2] were located here. Historical facts are plenty to support this version.

But science never stands in place. In the last 7-8 years, a number of new archeological finds discovered in Stara Samar clearly show that the permanent settlements that served the crossings predated Hetman Ivan Mazepa's construction of the Bohorodytsia Fortress on orders from Moscow. Coins and seals on goods from the 16th to the mid-17th centuries have been found in closed chambers, along with household items, a tavern, and a buried street... Indeed, the archeologist's shovel provides some of the best facts—ones that are hard to contest. Most Dnipro historians have concurred with 1524 as the possible year from which the town can be dated.

What is clear is that the continuous cultural layer at Stara Samar begins in the first quarter of the 16th century. The temptation is to start with the oldest coin from this era, from 1509. However, it was in circulation for several decades, so the start of the count is more reliably based on the seal from 1524. Indeed, there is a similar seal from the following year, 1525. Merchants placed such seals on large shipments of goods, which in this case was most likely woolen cloth, to guarantee quality with their own good name. So, in 1524 some merchant caravan brought a wholesale lot of cloth to Stara Samar and most likely sold it right there as retail. The following year, the same happened. The presence of the ferry crossing, residents and trading all suggest a serious, stable settlement.

NOW FOR THE THEORY

To some extent, it made sense to check these facts against the theoretical work of two Dnipro professors, Iryna Kovaliova and Serhiy Svitlenko. In short, they talk about a bilinear and polycentric concept of the founding of Dnipro. It takes into account the role of all the settlements, hence polycentric, on both sides of the river, hence bilinear, in the genesis of the urban area. They emerged during different years in the 16th through 18th centuries, but all of them form part of the history of Dnipro, each contributing its own unique part. This approach makes it possible to understand the history of the city in a more comprehensive and persuasive manner.

By the end of the 17th century, Stara Samar was the cause of endless disputes between local Zaporozhians and Russian interlopers. In 1688, the Kozak town was enclosed by the Bohorodytsia Fortress, built for the Russian Tsar. And although most of its settlers were people from the Hetmanate and a Kozak troop was formed, the presence of a Russian garrison and a foreign fortress annoyed the locals no end. In fact, it bothered them so much that when Petro Ivanenko launched an armed uprising against the Muscovite state, a large number of the Sich supported him and stormed the fortress, along with allied Zaporozhian and Tatar forces. They were unable to take the citadel, but the unprotected lower town was thoroughly burned. The unregistered Kozaks achieved this in 1711, this time in an alliance with the Tatars and the Turks, when they ›

[1] An administrative district under the New Sich (1734-1775)

[2] A province of that time

PHOTO: DENYS AKSIONOV

The draw of history. Most bridges in Dnipro, such as the Kaidatskiy, were built at the sites of the one-time river crossings

managed to force the Russians to clear out under the Prut Peace Treaty.

However, in the mid-1730s, the Russians returned and the fortress, which was more and more often referred to as the Stara Samar retrenchment. As one example, in 1749, a number of Zaporozhian Kozaks came to town and had a merry time in the local tavern. They broke their Lenten fast in the village of Samarchyk, today Novomoskovsk, and planned to continue celebrating in Noviy Kodak, but found themselves in Stara Samar instead. The Kozaks drank and started shooting and threatened to burn down the fortress. The commander, Major Kovaliov, decided to set up artillery in the fortress, which meant taking out the cannons that had been mothballed since the previous war. Obviously, the Kozaks' appearance did not go unnoticed.

UNEASY COEXISTENCE

In fact, however, the Zaporozhians had every reason, even on the day-to-day level, not to tolerate the presence of the Russian in the free towns. The fundamental difference in understanding the status and nature of the Zaporozhian Host of unregistered Kozaks was clear in the battle at Noviy Kodak, which took place in 1766. Vasiliy Ponomariov, captain of the Briansk Infantry Company, complained that during a crossing, he was charged a crossing fee of 50 kopeks and his officer's honor was insulted. Unfortunately, the text of the officer's report was not preserved. Most likely he included the words that the Zaporozhians flung at him. A description of the event has come down to us in the records of the Kish, the administration center of the Zaporozhian Host.

When Captain Ponomariov crossed from the left bank of the Dnipro and rode towards the Sich, he called his trip a service one, so no one charged him for the ferry. But on the return trip, when he and his entourage made it clear that he had traveled together with his wife to visit friends and make some purchases, the provisor suggested that he pay for the crossing.

The officer then began to threaten and disparage the honor of the Host: "You're just a bunch of deserters and vile animals who don't understand the rules and laws of the country, that this ferry belongs to your Sovereigns and all the people." Ponomariov then demanded to be ferried without charge and threatened to poke the ferryman's eye out. According to the Host records, the provisor had not insulted the officer, only promised to remove him from the ferry.

No less entertaining were relations among the rank-and-file. Two ordinary soldiers garrisoned at the Stara Samar Retrenchment, Mikhail Naidyonov and Filip Chernikov, decided one fine January day in 1762 to spend some time fishing in the Samara, which was covered in a thick layer of ice. Contemporary chronicles don't say how successful the fishing expedition was, but the thoroughly-chilled warriors warmed themselves up nicely in a tavern in Odynivka, which was located on the bank opposite the fortress. Having spent 4 kopeks to warm up, Naidyonov and Chernikov decided that they needed to top up their wallets and, as darkness descended on the town, they paid a visit to a pen with livestock belonging to a local, Sydor Samotkan. Beyond that point, the testimonies of the soldiers and the local residents diverge. The local militia clams that the thieves were captured at the scene of the crime by 10 people. It seems that it's easier to believe the locals, because according to their version, Samotkan saw uninvited guests near his livestock and called his neighbors Ivan Odymchenko and Yakiv Taran. The three of them stopped the thieves.

As to what happened further, then the Russian version seems more reliable. The villagers stated that they beat the soldiers only while they held them, as the two were trying to use their knives. Chernikov claimed that they were beaten when they were caught, then whips were used against them in Samotkan's yard, and the following day Kozak Otaman Hnat Horobets flogged them once more with a knotted whip while interrogating them about the livestock, which regularly disappeared on the residents of this settlement. Chernikov knew to keep quiet, but Naidyonov tattled on a number of dragoons from the Retrenchment who had stolen five horses and sold them at a market in the Belevsky Fortress in 1761.

Most Dnipro historians have concurred with **1524** as the possible year from which the town can be dated

There were plenty of similar stories. In the later 18th century, the Sich Kozaks no longer had the power to storm the fortress, but they did manage to get out of the local settlement the jurisdiction of the Hetmanate, which was foreign to them, and actively populated the area around the fortress with Kozak and commonwealth settlers. When it came to a location for Katerynoslav-Kilchenskiy, Stara Samar with its fortress that could defend the new imperial center was the obvious choice. And so the little town became its suburb.

Today, Stara Samar is once again the center of controversy, this time between those who would prefer to keep the Russian foundation dates for Dnipro and those who want to return the Kozak era to its history. Stay tuned.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July 14-16, 4p.m.

Taras Bulba Festival
Spartak Stadium
(Dubno, Rivne Oblast)

The Festival of Bold Spirits is how the organizers call this rock happening.And it's impossible not to agree when you look at the list of performers: Nokturnal Mortum, Motor-rolla, Stones Jesus, Space of Variations, Inferno, Heart Attack, Scarleth, Veremiy, Drymba DaDzyga, and more than 30 more. The festival grounds will have three separate stages: the Main Stage, the Alternative Stage and the Acoustic Stage. But the program is hardly limited to this: guests will be entertained with a literary corner, a nightly bonfire, and movie showings, master classes, a kid's playground, and yoga lessons.

July 19, 7.45p.m.

Depeche Mode
Olympic Stadium
(vul. Velyka Vasylkivska 55, Kyiv)

The capital's Olympic Stadium expects to see some serious queues as part of the worldwide Global Spirit Tour when legendary Depeche Mode comes to Kyiv. Ukraine joins their roadmap together with Switzerland, France, Romania, Slovenia, Hungary, Belarus, and other countries. This will be the group's third time performing in Ukraine. This time, the musicians will offer fans cuts from their new album, Spirit, which is expected to be released at the end of the year, along with old hits like Personal Jesus and Enjoy the Silence.

July 20, 8p.m.

Classics on the Terrace – Ocean's Orchestra
Vsi Svoyi
(vul. Desiatynna 12, Kyiv)

What can compare to a warm summer evening on a terrace in the heart of Kyiv? A warm summer evening under an open sky to the accompaniment of classical music. The virtuoso Ocean's Orchestra will perform masterpieces of world classics for Kyivans and their guests. Even the most demanding lovers of classical music will be warmed by the masterful, genuine playing of this group. The evening's program will include works by Bach, Mozart and Schubert. So enjoy an uplifting evening of enchanting melodies accompanied by the sound of the wind and the twitter of birds as night falls.

Jul. 20 – Sept. 28, 7p.m.

Christopher Makos: The Andy Warhol Era
Izone
(vul. Naberezhno-Luhova 8, Kyiv)

The works of world-famous American photographer Christopher Makos will be exhibited in Ukraine for the first time ever. Makos was a close friend of pop artist Andy Warhol, who was of Ukrainian extraction. Thematically, the show can be grouped into two parts: the first reflects bohemian New York in the 1970s and 1980s. The second shows Warhol in the image of his female alter ego. Makos's photos are filled with a genuineness and intimacy that enhance this documentation of an era that saw, in addition to Warhol, creative giants like Salvador Dali, Mick Jagger, John Lennon and many other icons of art and pop culture.

Until July 28

The Ukrainian Underground
The Golden Mean Art Space
(vul. Leonida Pervomaiskoho, 4, Kyiv)

More than 40 works by Ukrainian artists of the 1960s will be exhibited as part of the Ukrainian Underground show. Among these will be the works of famed members of the underground like Alla Horska, Viktor Zaretskiy, Serhiy Paradzhanov, Hryhoriy Havrylenko, Fedir Tetianych, and Roman Selskiy. The show focuses on paintings, sculptures and graphics from the 1960s and 1970s that are currently in private collections. The exposition is a unique grouping of works by artists from different parts of the country and is a symbolic reflection of life during those years in all of Ukraine.

Until August 6

In Progress. Dress Code in Ukraine since Independence
Art Arsenal
(vul. Lavrska 10-12, Kyiv)

This original show launched at the beginning of summer in Kyiv and is dedicated to the recent history of Ukrainian fashion. The exhibit includes around 200 models from 40 Ukrainian designers, large art objects 4 meters tall, and models from shows in such fashion capitals as Milan, Paris, New York, Florence, and Dallas. For the organizers, the point was not just to show fashionable trends but to explore society through the prism of fashion. The story starts with clothing from the 1990s and ends up with what is happening today.

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