

DISPUTE RESOLUTION

CHAMBERS EUROPE 2008

The Firm: One of the longest-standing firms in Ukraine, this group is complimented for its *“exceptionally strong and widely respected”* practice. Peers point out that the team is *“solid and established in litigation, and is always seen in action in the courts,”* while clients report that it *“definitely delivers academically well-grounded opinions and good, practical advice.”* One peer added: *“We are always confident when referring our clients to this firm.”*



VASIL KISIL & PARTNERS

ATTORNEYS & COUNSELLORS AT LAW

About the firm

Established in 1992, Vasil Kisil & Partners is one of the leading Ukrainian law firms. 65 experienced and skilled attorneys of the firm work across a range of specialized business law areas, including antimonopoly and competition, arbitration and litigation, banking and finance, corporate, commercial, energy and natural resources, intellectual property, international trade, mergers and acquisitions, labor and employment, real estate and taxation.

The clients of the firm include international and domestic companies, as well as private individuals, dealing in agriculture, banking, chemical, construction, financial, energy, hi-tech, general commodities, insurance, IT, media, metallurgy, pharmaceutical, real estate, shipbuilding, telecommunication, trading, transport, and other industries and economy sectors.

Vasil Kisil & Partners' team is dedicated to the highest level of service according to internationally accepted professional and ethical standards.

Our clients include such world-known companies as Alcatel, Astellas Pharma, BASF, Bayer Consumer, BNP Paribas, Central European Media Enterprises, Dell, Du Pont, Eurosport, Fitch, Hewlett-Packard, Gucci, LG Electronics, Marks & Spencer, Merrill Lynch, Moody's, Nissan, Opel, OTP Bank, Pioneer, Philips, SEB Group, Saab, Siemens, Shell, Tchibo, Volkswagen.

Dispute resolution practice

The firm enjoys particularly strong reputation in dispute resolution, having exceptional experience in litigation and arbitration, both international and domestic, as well as alternative dispute resolution.

The dispute resolution team of 27 attorneys includes professionals recognised as leaders of the Ukrainian litigation practice by peers and competitors as well as by international legal markets researches by Chambers Global and Chambers Europe, PLC Which Lawyer? and PLC Dispute Resolution.

Our services

Attorneys of Vasil Kisil & Partners successfully represent clients in a range of types of disputes in Ukraine and abroad at national courts, international arbitration institutions and arbitration tribunals ad hoc, including:

- Antimonopoly and competition disputes, including merger control, abuse of market power, concerted actions, and unfair competition;
- Bankruptcy and restructuring proceedings, with experience of acting both for the creditors and debtors, as well as acting as receiver / liquidator appointed by the court;

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The Lawyers: **Oleg Makarov**, "*celebrated name in litigation,*" is highly acclaimed by observers for his "*extensive practice*" and his "*rational and thoughtful approach to work.*" Up-and-coming **Oleksiy Filatov** is credited by clients for his "*proactive approach*" and for going "*deep into the details of cases.*"

- Commercial disputes arising out/of or related to entering, fulfillment, termination and validity of commercial contracts and other legal instruments alike, loan and collateral collection;
- Corporate disputes, either between shareholders or shareholders and the company, including those related to corporate governance and shareholders' rights, shareholder agreements, mergers, spin-offs and liquidations;
- Intellectual property disputes, including trade marks, patents, commercial/trade names, geographical designations, commercial secrets, copyright and neighboring rights, as well as domain names;
- International trade disputes arising out of various types of contracts ranging from supplies and purchase and sale to franchising and engineering agreements;
- Labour disputes, including those related to lay-offs, fulfillment and termination of labour contracts, compensation payments, collective labour disputes and labour arbitration;
- Privatization disputes, including those over the results of privatization tenders, fulfillment of investment obligations and re-privatization proceedings;
- Product liability disputes;
- Real estate disputes, including those related to the title to land and buildings, validity and fulfillment of real estate transactions;
- Recognition and enforcement of arbitration award and foreign court judgments in Ukraine, as well as challenging of arbitration awards rendered in Ukraine;
- Regulatory disputes, with especially extensive experience in the sectors of energy, construction, telecommunications, media, pharmaceuticals and healthcare;
- Securities disputes arising with regard to issuance of and transactions with shares, bonds, bills of exchange and promissory notes, as well as other financial instruments;
- Tax and customs disputes.

Selected representative cases

We have been representing our clients in a large number of complex and high-profile disputes, which examples in selected practice areas include acting for:

Bankruptcy

- **Creditors of the Black Sea Steamship State** Shipping Company, the major Ukrainian and ex-Soviet, and formerly one of the major steamship companies worldwide, in the bankruptcy proceedings and a number of litigation cases related to the bankruptcy, including disputes over title to properties, legality of property alienation agreements, pledges and mortgages, and enforcement proceedings;

Commercial Disputes

- An **Austrian investment company** focused on the oil and gas sector in Eastern Europe, in disputes related to title to the property (buildings and drilling rigs) sold off through the public auction within the framework of bankruptcy proceedings of **Poltava Oil and Gas Geology**, subsidiary of **Nadra Ukraine** State Joint Stock Company, including disputes over property title, validity of sale and purchase agreements and mortgage agreements, legality of actions of state enforcement agencies;

- **Swiss division** of a major **international bank** in a number of disputes arising out of international trade finance transactions, including debt collection cases against Ukrainian borrowers, bankruptcy proceedings, as well as collection of property and other assets of borrowers in a number of regions of Ukraine under court judgments and within simplified extra-judicial legal proceedings;
- A large **German manufacturer of printing equipment**, in a debt collection matter against a Ukrainian buyer, including representation in debt collection litigation, advising on the simplified extra-judicial collection proceedings, enforcement of real estate mortgage, counterclaims for damages allegedly incurred by the buyer of the equipment, as well as criminal proceedings against the executives of the parties to the case;

Competition Disputes

- A Ukrainian subsidiary of a worldwide group of **energy and petrochemical companies** in a dispute with the Antimonopoly Committee of Ukraine regarding allegedly anticompetitive concerted actions on the fuel retail market;
- A leading **international manufacturer of chemical products**, in a number of complicated cases related to unfair competition and unfair trade practices, at Ukrainian courts and at the Antimonopoly Committee of Ukraine;
- A large **European insurance broker** in the unfair competition proceedings at the Antimonopoly Committee of Ukraine, involving unlawful soliciting of personnel, exploitation of commercial secrets and know-how, trademark and trade name infringements;

Corporate Disputes

- A subsidiary of the major **German telecommunications company**, in a case initiated by the Office of Prosecutor General of Ukraine challenging the legality of the share purchase and sale agreements regarding Ukrainian Mobile Communications (currently Mobile TeleSystems Ukraine), one of the largest Ukrainian mobile operators, executed between Ukrtelecom, state-owned Ukrainian telecommunications provider, and foreign investors;
- One of the **largest media groups in Central and Eastern Europe**, in a dispute over the shares in **Studio 1+1**, one of the leading Ukrainian TV broadcasters, including a number of proceedings in Ukrainian courts with regard to title to the shares, specific performance under the alleged shares purchase agreement, legality of registration of corporate documents and shareholders;
- A shareholder of a major **real estate and development group of companies** holding real estate assets in Ukraine worth more than a billion Euros (estimation 2007), as a claimant in a complex multi-jurisdictional shareholders' dispute which involved a series of proceedings in Ukraine and Cyprus regarding transfer and attachment of assets (real estate, shares and participation interests), corporate control over the companies of the group;

Intellectual Property Disputes

- A prominent **international manufacturer of chemical products**, in a number of complicated litigation cases related to trademark and patent protection, as well as unfair competition, at Ukrainian courts and at the Antimonopoly Committee of Ukraine, and in the criminal proceedings against the infringers of the trademarks and patents;
- A major **European sports television company**, in a range of cases arising out of the infringement of trademark, copyright and neighboring rights, as well as in a bankruptcy case of one of the infringing companies;

- A world-known **Internet company** providing leading Internet search and advertising as well as other Internet services, in a range of trademark, trade name and domain name disputes in Ukraine;

International Arbitration

- A subsidiary of an **international oil and gas exploration company** in Stockholm Chamber of Commerce arbitration regarding in dispute under a product sharing agreement against the Ukrainian government;
- A **Singaporean telecommunication company** in international arbitration according to International Chamber of Commerce Rules in an USD 11 mln dispute regarding compensation of damages for alleged breach of a telecommunication equipment supply and installation contract;
- **German and Swiss subsidiaries of a leading multi-national chemicals manufacturing corporation** in the International Commercial Court at the Ukrainian Chamber of Commerce and Industry (ICAC) seeking recovery debts, fines and interest payable for delivered commodities from a Ukrainian company; further representing the clients in the ICAC awards enforcement procedures in the territory of Ukraine;

Labour Disputes

- A leading **international beverages manufacturer** in a range of labor cases initiated by more than 30 former employees with regard to allegedly due overtime payments;
- A large **French food manufacturer** in a collective labor dispute including negotiations with trade union and public authorities supervising labor law compliance (National Office of Mediation and Reconciliation), as well as at labor arbitration;
- A prominent German-based chemicals manufacturing corporation with more than 160 subsidiaries and more that 150 production sites, in a labor dispute with its former employee claiming for recovery of severance payment and moral damages;

Maritime Disputes

- A leading **Ukrainian shipping company** in several international arbitrations in Maritime Arbitration Commission at the Ukrainian Chamber of Commerce and Industry and re different charter-parties;
- A major **Ukrainian shipping company** in international arbitration under LMAA Rules in London re different charter-parties;
- A pool of **Swiss, Dutch and German insurance and reinsurance underwriters** in complicated litigation arising out of a shipwreck on Danube causing loss of ship and cargo;

Personal Injury

- **The Government of Ukraine**, in a range of damage cases arising out of the crash of Tu-154 jet allegedly shot down by a Ukrainian missile during military maneuvers;

Product Liability and Consumer Disputes

- A major **German automobile manufacturer**, in a product liability dispute for a combined total of 22 million Euros of actual and moral damages sought by the plaintiff as a remedy for injuries suffered as a result of car accident;

- A major **Japanese automobile manufacturer**, in a product liability dispute for of actual and moral damages sought by the plaintiff as a remedy for injuries suffered as a result of passenger security system malfunction;
- A Ukrainian subsidiary of a worldwide group of **energy and petrochemical companies**, in administrative proceedings against consumer protection authorities in disputes related to the quality of motor fuels sold through a network of fuel stations;

Regulatory Disputes

- **An international oil and gas exploration company** in the dispute with the **Ministry of Environmental Protection** regarding validity of the special permit to explore and develop hydrocarbon resources in the Black Sea deepwater area, as well as in a number of related court proceedings;
- A subsidiary of a major **Japanese pharmaceutical company**, in a number of disputes against the bodies of the **Ministry of Health Protection** with regard to registration of pharmaceutical products in Ukraine;
- Leading Ukrainian **television and radio companies** in a number of disputes against **National Broadcasting Council** with regard to broadcasting licenses issue and revocation as well as compliance with licensing conditions and media legislation;

Tax and Customs Disputes

- A global US-based **steel and commodities trader** in a range of disputes with the Ukrainian tax authorities regarding taxation of our client's representative office in Ukraine. These disputes covered several taxation issues, including VAT and corporate profit tax, inter alia, on the basis of the non-discrimination rules provided by the double taxation avoidance treaty between Ukraine and the USA;
- A large Ukrainian **pharmaceutical company** in a range of disputes with customs authorities of Ukraine regarding application of tax and customs import privileges;
- A large Ukrainian company operating **a network of fuel storage facilities and gas stations**, in a dispute for USD 20 mln to be allegedly paid to the tax authorities with regard to the state guaranteed loans.



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The International Who's Who of Business Lawyers 2007 and 2008

names Dr. Tatyana Slipachuk, FCI Arb, a leading practitioner in the arbitration area of law, and she is the only lawyer from Ukraine placed in the top tier ratings.