



Business Leaders Talk

Dr. Vasil I. Kisil shares his experience and knowledge of the Legal Services industry and gives us an insight into how the industry has been affected by the recent financial crisis.



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Background: Vasil I. Kisil is a professor of Private International Law at the National Taras Shevchenko University of Kyiv. He received the degree of Doctor of Laws. Vasil I. Kisil is recognized as one of the leading experts in Ukraine in Private International Law, Civil Law, and Investment Law.

1. How has the legal services industry been affected by the global financial crisis?

The crisis did change the legal services sector - it shrank the volume of legal work provided in M&A, setting up or acquiring a bank, supporting investments etc and it dealt an especially hard blow to real estate practices. At the same time, the demand for dispute resolution services and litigation has grown. There has been an increase in cases relating to physical and legal entity's rights, corporate disputes, the fulfilment of financial and credit obligations, insolvency issues, etc. Today, demand is growing for services such as hostile takeover risk minimization, tax optimization, the retention of valuable assets, restructuring, raising finance, and the repayment of receivables. Intellectual property practices continue to be in demand as services such as trademark registration, the patenting of inventions, trade secret protection etc raise the investment attractiveness of a business. Nevertheless, the overall volume of legal work has not changed all that much. No well-respected law firm ceased to exist - they just adjusted their priorities and tailored the portfolio of services to the new economic reality.

2. Your company offers legal services in countries across the globe. Is operating in Ukraine any different to operating in other parts of the world?

What makes it different? I don't see a significant difference in the type of service provision and the methodology associated with it. Obviously, in comparison with our Western-European and North-American colleagues there is less specialization in Ukraine, that is to say that we don't really have these large firms that mostly specialise in providing legal support for a specific sector as they do. In our country we are still moving in that direction. Nevertheless, there is a difference in certain types of specialised services. For example, the legal status of an attorney in Ukraine is significantly different from the same status abroad. This difference is not to anyone's favour - it affects attorneys' rights and limits their ability to conduct their work.

3. If you could make three reforms to the legal services industry in Ukraine tomorrow, what would they be?

To answer your question, I would definitely repeat the same thing three times: judicial reform, judicial reform, and yet one more time – judicial reform. The current state of judicial proceedings and the state of the court system in Ukraine has turned into a real threat to national security. Therefore, we must concentrate our efforts on accomplishing this reform. To my greatest regret, of the three branches of power that exist in a state (Legislative, Executive and Judicial) we don't have judicial power as an independent, unbiased and objective body to handle dispute resolution. Formally Ukraine does have courts, though their system is obviously lacking improvement and is very convoluted and unnecessary complicated. What's more the existing Ukrainian courts, despite their new names, have failed to get rid of their Soviet traditions. They have also lost a lot of their ability to conduct objective judicial proceedings. I can go on and on about this particular issue, but the main thing is that without a judicial reform - there can be no progressive changes in the area of legal services provision.

4. Investors are often cautious about investing in Ukraine, in part because of irregularities in

the legal system. What advice would you give to companies who are thinking of entering the Ukrainian market?

You are right on the money here, sure, investors are cautious about investing in Ukraine, and not just foreign investors - national investors are also reluctant to do so. On the one hand you have an attractive market of ~46 million consumers, a strategic location at the crossroads of East-West and North-South trade routes and plenty of demand to be fulfilled in a variety of economic sectors. On the other hand, several barriers continue to hamper investor confidence, the convoluted legislative framework, red tape and a perceived low degree of transparency in decision making are among the most significant. My main advice in this regard (and you can consider it a corporate interest) is this: do seek professional legal support. Find a law firm that is able to go beyond just giving the information on the legislature in any respective sphere, secure a competent legal advisor who is also top-notch in litigation. Nowadays the legislature that governs investor activity, corporations, the banking sector, subsoil use and many others has become so complicated comparing to what it used to be a decade ago, and without adequate and solid legal support from an expert (with deep knowledge of local specifics) an investor is taking a huge risk.

5. How do you see the year ahead in Ukraine? Are you broadly optimistic or pessimistic and why?

The information available to me from my professional activities gives me reasons to be cautiously optimistic.

6. Will Ukraine be ready for the European football championships in 2012?

Judging from the active involvement of the Ukrainian government that has been talking place lately – I think, yes - most definitely.

The EBA wishes to thank Dr. Vasil I. Kisil for his time and support and we hope you found his answers both interesting and informative.