

# TURNING TIDES

A wave of legal reforms are helping Ukraine to maximise its potential as a destination for overseas investment. Global law firm DLA Piper examines the changing climate.

**Ukraine is typically seen as an emerging country, blighted by crisis.**

Ukrainians are all gradually helping to change this stereotype. Ukraine is strategically located between East and West with a population of more than 40 million. Visa-free travel for citizens from Western countries, its proximity to major economic centres, a highly educated workforce and cheap assets indicate that the time is right for investors to take Ukraine seriously.

Here we examine key legal reforms aimed at improving the efficiency and safety of investments.

**JUDICIAL REFORM**

There are currently about 7000 judges in Ukraine, with plans to cut this number to 5500. The constitutional provision granting judges total immunity has recently been overturned. In certain cases, the High Council of Justice (rather than parliament, as was previously the case) will issue a permit to detain a judge.

Henceforth, judges must file declarations for their own (and their families') income, which are reviewed by the community board of the High Judicial Qualifications Commission. Deception in the declaration process will result in imprisonment; failure to justify income will end in dismissal.

Some 200 judges will soon be selected for the Supreme Court and will be paid significantly more than previously. A similar pay increase will also follow in local courts.

**COMBATING CORRUPTION**

No major bribery case has yet ended with a guilty verdict in Ukraine. It is unfair to say that nothing is being done to counter corruption – ProZorro open e-tendering is one measure designed to prevent bribery in public procurement. Now all procurements of more than \$7400 by public authorities should go through the ProZorro system. Anti-corruption Court has been established.

**TAX SYSTEM**

Relations between businesses and tax authorities in Ukraine have never been easy. Historically, tax policy was oriented towards fiscal goals rather than establishing balance between economic development and social objectives. In order to change this situation, the Ministry of Finance has been granted a more decisive role in fiscal policy and administration.

The trend is switching from exercising authority to providing tax services. For example, local tax inspectorates no longer conduct tax audits, and will instead

Goal	What has been done	What is being done
Establish rule of law	Judges elected on a competitive basis. Simplified procedure for lifting judges' immunity.	Competitive selection of Supreme Court judges.
Improve protection of rights to real property	Public Register of Rights to Real Estate and State Land Cadastre searches (by owner or address). Registrar informs property owners about register changes.	Simplified complaints procedure through Ministry of Justice.
Liquidate corruption	Law "On Public Procurement". Establishment of Anticorruption Bureau, Agency for Prevention of Corruption and Specialised Anticorruption Prosecutor's Office.	Fully-fledged operation of public procurement system.
Deregulation	Law simplifying business operations. Cancellation of regulatory restrictions, harmonised procedure for leasing state-owned land and introduction of one-stop shops for business registration. Significant reduction in licensed activities.	Unified portal for administrative services, simplification of procedure for receipt of permits.
Tax system improvements	E-system of VAT administration, introduction of OECD based transfer pricing control regulations. E-file tax reporting.	Improvement of open electronic registers. Transfer of tax controls and customs policy to Ministry of Finance, reorganisation of local tax inspectorates into service centres, liquidation of tax police.
Currency liberalisation	The National Bank of Ukraine is gradually lifting restrictions on foreign currency transactions; reducing mandatory sale of foreign currency proceeds; allowing Ukrainians to open accounts overseas and use funds without NBU permit.	Continued liberalisation of currency controls.

be reorganised into service centres.

Another historical issue with Ukraine's tax system is VAT refund. During Viktor Yanukovich's presidency, it was almost impossible to get VAT refunded without certain solicitation. To resolve the problem, an electronic system of VAT administration and publicly available VAT-refund registers has been introduced. This unique e-system is one of the most progressive in the world.

**REAL ESTATE**

Ukraine is one of the last major nations in Europe where the value of most real estate assets is significantly understated. Post-2008, prices for commercial and residential property remain low.

It is, however, very likely that the Ukrainian real estate market will begin to pick up soon. In 2016, retail trade grew by 3.7% in comparable prices and increased construction volumes (according to the State Statistics Service of Ukraine).

At the start of 2016, a simplified registration system of property rights was launched; private notaries received registration powers equal to those of state registration departments. Information from the Register of Rights to Real Estate and the State Land Cadastre became publicly available, which contributed to simpler and safer transactions.

To combat possible abuse of the new system, on October 6, 2016, a law was passed that blocked the alteration of records in the register without informing and gaining consent from the owners.

**CONCLUSION**

Due to high expectations, current reforms appear to be progressing slowly. We believe, however, that the current legal system is gradually improving in key areas, which will lead to more successes in the future.

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