



Proceedings

Presentation and Discussion of the Roadmap for preventing registration raiding and enforcing restrictions on land concentration in Ukraine with following discussion held on November 10th, 2021 (on-line).

On November 10th, 2021 an Online event on presentation and discussion of the White Paper “Roadmap for Preventing Registration Raids and Addressing Gaps in the Protection of Real Property Rights (Land Plots) and Land Concentration Restrictions in Ukraine”, developed by the Better Regulation Delivery Office and supported by the EU funded and the World Bank implemented “Supporting Transparent Land Governance in Ukraine” Project was held.

Aim of the event was to present a White Paper with a comprehensive [strategy](#) and roadmap to prevent raider attacks and better protect property rights for land plots as well as discuss it with state authorities’ representatives responsible for state policy and decision-making in the field of registration and protection of the rights of land owners and users. Based on the discussion, the steps necessary for the implementation of priority measures to prevent and combat registration raiding in the land sector were identified.

Comments discussants

Serhii Orlov, Deputy Minister of the Ministry of Justice (CDTO), supported the initiatives proposed by BRDO and mentioned that for the transition to practical implementation, the support of partners is necessary for detailed analysis / development of business processes - as a first step.

Markus Klingler, Team Leader for Agriculture and SPS, European Commission, SGUA – Support Group for Ukraine, underlined that preventing raider attacks requires upholding the rule of law, which is at the basis of a democracy. This requires that every raiding case should be analyzed, local police should improve investigations, and the system overall must be adapted step by step. He agreed that a risk-oriented approach is the best way forward.

Christian Ben Hell, Sector Manager for Land, Agriculture, Forestry, and Food Safety, EU Delegation, expressed support of the roadmap and agreed that the slow risk-assessment proposed is conform EU standards and would be the correct approach to tackle the raiding problem, and confirmed that the EU is ready to provide support to this. Mr. Hell said that technical issues with respect to implementation are to be negotiated directly with the Ministry. He also emphasized the importance of faster and more effective assistance to those farmers that have been the victim of raider attacks, which requires an improvement of communication between Ministry of Justice and small farmers on how to restore their rights rapidly and efficiently (administrative appeal; court injunctions).

Dovydas Vitkauskas, representative of the European Union project "Pravo-Justice", entirely supported the BRDO’s research and initiatives proposed in the Roadmap. He also mentioned

difficulties associated with the implementation of the electronic notary system project. Mr. Vitkauskas expressed the project's position on the legislative regulation of the status of State registers, and the legal significance of reliable data in them, integrating of land and real estate registration and the creation of a unified address register. Achieving these goals requires cooperation between the Ministry and other stakeholders and partners.

Deputy Business Ombudsman, Yaroslav Gregirchak, noted that in 2017 the office of Business Ombudsman prepared a systemic [report](#) on raiding, and several of its recommendations have been implemented, like the integration between DRRP and USR and determining the jurisdiction of disputes. However, other recommendations are still outstanding, such as, for example, the synchronization between the registers of the Ministry of Justice and the court register. He agreed with the conclusion in the report that the present situation of a Ministry of Justice that cannot carry out its own orders is wrong and confirmed the need for an effective administrative appeal.

As for the proposed initiative to increase the efficiency of administrative appeals, Mr. Gregirchak noted that an administrative procedure must exist first, that is envisaged by adopted law #3475 "On Administrative Procedure".

He proposed to harmonize with adopted law #3475 "On Administrative Procedure" possible amendments to the respective legislation in order to increase efficiency of the administrative appeals.

Viktor Dubovyk, Head of the Anti-Raider Office, agreed with the report's identification of gaps in the legislation and the need to improve the technical security of registers. There is promising practice like the recent introduction of two-factor authorization which has prevented some attacks.. He noted the importance of adopting the draft law # 3774 "On Improving the Anti-raiding Mechanism" and mentioned that the introduction of the initiatives listed in the White Paper will help to reduce the number of cases in the Anti-Raider Office. His Office supports the idea of introducing the possibility of an appeal of the re-registrations chain, while off course taking into account the provisions of the Civil Code to protect bona fide purchaser.

Ruslan Kvitin, lawyer on raiding issues, supports the initiative on the possibility of the Ministry of Justice to technically suspend registration actions in case of a complaint, which is included in the White Paper with reference to the Draft Law #3774.

Diana Kolomyitseva, representative of the All-Ukrainian Anti-raider Initiative, focused the attention on errors in appeals. Namely, the subject of the complaint sometimes is incorrectly determined, and complaints to the MoJ are incorrectly prepared. She proposed to regulate the procedure for supplementing the complaint and to publish the standard structure of the complaint.

Inna Bernadska, the representative of the Notary Chamber of Ukraine did not support the proposal in the report to introduce an "owner's electronic cabinet in the Registry of Rights with the function of confirming or blocking the transfer of transactions made in the registry as proposed in the White Paper. She also raised doubts about the State's readiness for starting an initiative to introduce an effective appeal of the re-registration chain. Ms. Bernadska also mentioned that raiding is often connected with crimes and that police should increase efficiency of investigations of raider attacks.

Olga Matviyiva, Director of NGO "Business Varta" working to support farmers against raiding, said that the Ministry of Justice violates the terms of appeal consideration, and if the Commission would quickly consider appeals, then the NGO "business Varta" would support

the effective appeal of the re-registrations chain. She also pointed out the importance of engaging with the police to improve their work of fighting against raiding and welcomed an invitation to participate in discussions on the provisions of the next anti-raider law #3774 2022.

Dmytro Lutsenko, the representative of the Verkhovna Rada Temporary commission of inquiry on Investor Rights Protection, stated that the Commission supports the Draft Law #3774 on improving the mechanism of counteraction to raiding and the Roadmap presented at this workshop. He also pointed out, that the Commission closely cooperates with the police to increase their efforts in fighting against Raiding.

Proposed next steps

1. Start implementation of risk subsystems elements by MoJ that are agreed by all stakeholders like (automatic monitoring risky registrations, introducing "step-by-step scenarios" in registers software, personal account right holders in part of messages and administrative services): systematization of business processes, design of validators.
2. In dialogue with all stakeholders for MOJ to finalize the vision of implementing the owner's electronic cabinet in part of blocking and confirmation of registration actions.
3. Work to introduce the appeal of re-registrations chain in the Anti-raider MOJ commission with all relevant safeguards like limiting the timeframe to one month from the moment of the first illegal registration action.
4. Together with all interested parties further work on relevant changes to legislation.

In the presentations and discussions participated: Serhii Orlov, Deputy Minister of the Ministry of Justice (CDTO), Dmytro Lutsenko, lawyer and legal expert of the Verkhovna Rada Temporary commission of inquiry on Investor Rights Protection, Markus Klingler, Team Leader for Agriculture and SPS, European Commission, SGUA – Support Group for Ukraine, Christian Ben Hell, Sector Manager for Land, Agriculture, Forestry, and Food Safety, EU Delegation, Klaus Deininger, Lead economist, World Bank; Team leader of the Project "Supporting Transparent Land Governance in Ukraine", Dovydas Vitkauskas, the European Union project "Pravo-Justice", Viktor Dubovik, Head of the Anti-Raid Office, Yaroslav Gregirchak, Deputy Business Ombudsman, Inna Bernadska, Vice President of the Notary Chamber of Ukraine, Ivan Slobodyanyk, Executive Director of the All-Ukrainian Association of Communities. "Agro-Food Council", Olga Matviyiva, Director of NGO "Business Varta".