

Sayenko Kharenko contributing to legal framework for consulting engineers in Ukrainian construction projects

Sayenko Kharenko's lawyers have actively participated in a working group to develop a legislative framework to regulate the role of independent consulting engineers in construction projects implemented in Ukraine.

The working group was organized by the Reform Support Team at the Ukrainian Ministry of Infrastructure and included representatives of the Ministry for Regional Development, Building and Housing of Ukraine, the Ministry of Economic Development and Trade of Ukraine, and the State Road Agency (Ukravtodor) together with other experts from various fields.

The developed draft law "On the Amendments to Certain Legislative Acts of Ukraine on the Participation of Consultant Engineers in the Implementation of Construction Projects" seeks to strengthen the role of consulting engineers in the implementation of construction projects to ensure better control over quality of works along with improvement of contract and claim administration, as well as minimization of risks associated with construction.

Sayenko Kharenko's assistance encompassed developing, commenting and evaluating draft law provisions from a legal and market prospective, as well as analyzing the relevant foreign legislation regulating consulting engineer authority and responsibilities to ensure that the proposed draft law corresponds to the best current practices adopted around the world. Amendments are proposed to the Civil Code, the Commercial Code, Law "On Architectural Activity" and other relevant legal acts. The draft law received a favorable opinion on 9 August 2018 during discussions headed by Volodymyr Omelyan, the Minister of Infrastructure of Ukraine, and is expected to be submitted to Parliament soon for consideration.

Counsel Volodymyr Yaremko comments: "The draft law is the first, albeit important, step towards the establishment of a market for the new profession of "consulting engineers" in Ukraine. The international organization of consulting engineers (FIDIC) has been founded as early as in 1913. One particular feature of the FIDIC form of contracts is participation of a consulting engineer in the construction process in order to ensure quality control and efficient contract management. After adoption of the draft law, the construction market in Ukraine will have the possibility to benefit from best practice endorsed by international financial institutions. This is particularly relevant for big infrastructure projects. It must be noted, however, that the way in which this practice will be used depends on the participants of each particular project and how efficiently they introduce a consulting engineer into their contractual framework. There is still a lot to be done by the government and other stakeholders before we can speak of the successful completion of this reform."

The Sayenko Kharenko's team involved in this *pro bono* project included counsel Volodymyr Yaremko and junior associate Vladlena Lavrushyna.