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# Where the law rules

2022

ARZINGER.UA



AR  
ZIN  
GER

# Arzinger in a Nutshell



Regional coverage:  
offices in **Kyiv, Lviv, Odesa**

**20** years on the  
Ukrainian legal  
market

**11** Partners

**50+** legal  
professionals



German Desk



LVIV



KYIV



ODESA



Partners in more  
than **150**  
jurisdictions  
worldwide



Highly ranked by Chambers,  
The Legal 500, IFLR 1000,  
Who is Who Legal,  
Best Lawyers, WTR 1000



Industrial  
Focus



Infrastructure  
Focus



# Practices

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Anti-Corruption Compliance  
and Business Ethics



Antitrust & Competition



Insolvency



Commercial  
Litigation



Tax & Customs  
Litigation



Intellectual Property



Corporate / M&A



White Collar Crime

# Practices

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International  
Dispute Resolution  
and Arbitration



Real Estate &  
Construction



Tax / Transactional and  
International Taxation



Employment



Public private partnership



Banking & Finance



Private clients



Family Law

# Industries

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Agroindustrial Sector



Automotive



Energy & Natural Resources



Transport & Infrastructure



Life Sciences & Healthcare



TMT & IT



Food & Beverage



Insurance



Financial Sector

# Our team

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**Timur Bondaryev**

**Managing & Founding Partner**  
Antitrust & Competition, Automotive,  
Real Estate & Construction, Energy



**Sergii Shkliar**

**Founding Partner, LLD**  
Dispute Resolution, Antitrust &  
Competition, GR, Insolvency



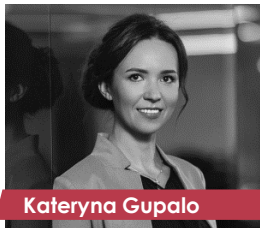
**Kateryna Oliinyk**

**Partner**  
Intellectual Property, TMT



**Taras Kyslyy**

**Partner**  
Intellectual Property, TMT



**Kateryna Gupalo**

**Partner**  
Tax & Customs Litigation,  
White Collar Crime, Anti-Corruption  
Compliance and Business Ethics



**Lana Sinichkina**

**Partner**  
Antitrust & Competition,  
Life Sciences & Healthcare, Anti-  
Corruption Compliance and Business  
Ethics



**Oleksander Plotnikov**

**Partner**  
Banking and Finance



**Iurii Sukhov**

**Partner, PhD**  
White Collar Crime



**Andrii Pidhainyi**

**Partner**  
Transport & Infrastructure  
Public Property Related Transactions



**Maryna Sharapa**

**Partner**  
Transport & Infrastructure  
Public Property Related Transactions



**Nataliia Gorbai**

**Partner**  
Private Clients and Family Law

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# Selected Credentials

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# AR ZIN GER



# Anti-Corruption Compliance & Business Ethics

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Conducting compliance due diligence of the Ukrainian business of an international automotive group, preparing a report with recommendations on how to improve the compliance system, conducting several trainings for the management and supporting the company in implementing the recommendations.

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Conducting comprehensive due diligence of a renewable energy producer, preparing recommendations on how to improve the compliance system and supporting the company in implementing the recommendations.

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Developing a pre-certification audit methodology for member companies of the Ukrainian Network of Integrity and Compliance (UNIC), conducting compliance due diligence for Network member companies.

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Advice on the possibility of classifying a former Ukrainian top official as a national public figure and foreign official according to the legislation on combating legalization (laundering) of proceeds from crime, and FCPA, assessing the risks of cooperation between persons and companies associated with him, which are subject to FCPA.

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# Anti-Corruption Compliance & Business Ethics (2)

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Investigation regarding signs of an existing illegal scheme in the relationship between a local distributor of medical devices manufactured by our client, a leading technology company, and a local law firm associated with a top law enforcement official.

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Conducting due diligence for STADA in the acquisition of Biopharma's non-plasma business.

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Comprehensive legal analysis of risks for an international IT company regarding the potentially unlawful contract conclusion at the cost of the state budget and introducing tools to minimize such risks. Risks were considered both in terms of Ukrainian legislation and considering transnational FCPA anti-corruption requirements.

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Comprehensive audit of anti-corruption compliance policies and procedures for the Ukrainian office of an international tobacco corporation, improving existing and developing new documents to ensure compliance with legislation and best practices.

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# Antitrust and Competition

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Successful representation of the client – a major domestic telecom company in all instances of the Ukrainian commercial courts in a dispute with the Antimonopoly Committee of Ukraine with regard to the alleged abuse of dominance in the market through establishment of tariffs for telecommunication services.

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Successful representation of a number of domestic and global, privately held and public companies from various sectors (including life science, automotive, distribution, TMT, retail, FMCG, tobacco etc.) during investigations of the Antimonopoly Committee of Ukraine on abuse of dominance and cartel cases.

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Legal support and representation of a number of domestic and global, private and public companies from various sectors (including life sciences, automotive, distribution, TMT, retail, FMCG, tobacco) during the merger control analysis of their national and foreign-to-foreign transactions amounting to more than USD 18 bln, including obtaining clearance for concerted actions (non-compete clauses etc.) by the Antimonopoly Committee of Ukraine.

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# Banking and Finance

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Acting as Ukrainian legal advisor for a group of international investment funds and banks in connection with provision of **USD 25 million** working capital facility to **Mriya Agro Holding**.

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Legal advice to a group of lenders – global banking corporations in the restructuring of a debt portfolio amounting to **USD 1,7 bln.** Scope of work included Ukrainian and cross-border corporate, banking & finance, insolvency, litigation, arbitration, white collar, competition and tax structuring advice.

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Assisting **EBRD** as Ukrainian legal counsel in connection with incorporation of a joint venture with Soufflet Group and financing its activity in Ukraine, Poland and Romania. Legal support to EBRD on all matters governed by Ukrainian law, including but not limited to M&A and merger control aspects.

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Legal advice to a banking syndicate on restructuring and recovery of **EUR 300 million** syndicated loan facility provided to **CREATIVE GROUP** (Ukrainian agricultural holding). The project involved several court and arbitration proceedings in Ukraine, England and Cyprus and several criminal cases in Ukraine, as well as tough negotiations with new shareholders and potential investors.

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# Commercial Litigation Representing

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Representing a **Ukrainian bank** — member of an international financial group – in a lawsuit regarding the foreclosure on the pledge securing obligations under a loan agreement totaling **over USD 300 million**.

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Representing a **group of international banks** in a dispute regarding the collection of credit debts from a Ukrainian company – a global and a major Ukrainian producer of mono and multicrystalline silicon wafers for sun elements totaling **over USD 95 million** under a loan agreement governed by Spanish law.

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Representing an **international logistic company** in a dispute regarding termination of an investment contract totaling **over USD 10 million** and termination of a mortgage agreement.

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Representing a member of **American Agro Trader Group** in disputes regarding shortfall of grain against a group of affiliated companies in Mykolaiv **totaling USD 12.4 million**.

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Representing a **group of Agro companies** in a series of disputes regarding the collection of debts totaling **over USD 10 million** under mortgage, guarantee and pledge agreements.

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Representing a **leading Swedish oil trader** in a dispute regarding the recovery of damages **totaling USD 12.4 million** inflicted by unauthorized disposal of petroleum products.

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# Corporate and M&A

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Providing legal support for Adobe Systems Inc. on the Ukrainian part of the global transaction, whereby Adobe Systems Inc. bought e-commerce **company Magento for \$ 1.68 billion**. In the course of the transaction Arzinger team was responsible for analysing a range of aspects of activities of the Ukrainian subsidiary companies from the buy-side perspective, whereupon the transaction documents were elaborated accordingly.

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Arzinger team provided extensive support for **Centrica PLC**, a parent company of Direct Energy, one of North America's largest retail providers of electricity, natural gas, and home and business energy-related services, on the Ukrainian part of transaction on acquisition of assets of Rokitt Inc. and their proprietary Rokitt Astra Technology. Arzinger area of responsibility comprised the audit of Ukrainian subsidiary company, advising the client on the terms of the transaction, elaborating the contractual provisions of umbrella share purchase agreement and closing the deal.

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Legal advice to **D.E. Master Blenders 1753 B.V.** in the Ukrainian part of the transaction for the purchase of shares in Jacobs Ukraine which was the part of the world-wide deal on coffee joint venture between Mondelēz International, Inc. and D.E. Master Blenders 1753 B.V.

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Full-scope legal support of **Venbest Group** – a leading Ukrainian security company in the course of an investment transaction with Europe Virgin Fund, a regional private equity fund, which included: negotiating terms and conditions of the transaction, corporate restructuring, drafting and negotiation of transaction documents and closing the deal.

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Legal advice to **Zeppelin International AG** in the course of acquisition of a majority stake of a major Ukrainian company. The asset acquisition was the final step to enforce the award rendered by the Vienna International Arbitration Centre in favour of the client in Ukraine with respect to multimillion debts under a major international contract.

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# Employment

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Arzinger's associates have advised the Ukrainian bank – a member of an international banking group – on the necessity to comply with the request of an elective body of trade union demanding to dismiss the Head of Board due to the violations of labour legislation. Furthermore, our associates looked into alleged violations of labour legislation and devised several options to tackle such hazard, bearing in mind the possible future strategies and actions of trade union and the related risks.

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Arzinger's associates prepared a comprehensive analysis of the Amendments and Additions to the Industrial Agreement and advised the international company that operates on the energy market on the necessity and timeframe for making the employer's regulations and collective agreement correspond to the becoming effective Amendments and Additions to the Industrial Agreement. Beyond that, our associates further elaborated on the outstanding issue of the date from which salaries ought to be increased to comply with the provisions of the new edition of the Industrial Agreement and correlation of this date with the actual update of the employer's regulations and collective agreement to reflect the novelty provisions of the Industrial Agreement.

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Arzinger's associates formalized the results of an Internal Compliance Investigation of a client against the subsidiary company of the world leading food producer and its officials, devised schemes for recall, suspension, and dismissal of the CEO, dismissal of other employees, as well as provided a comprehensive analysis of the possibilities and consequences of prosecuting company's officials. Moreover, our associates have further provided a complete legal support of the change of the CEO and freezing bank accounts.

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# Energy & Natural Resources

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Legal support with regard to a project covering issues related to the **construction of a power plant in Ukraine** for energy generation by recycling waste, with support of the state guarantee.

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Conducting full scope **due-diligence regarding SPVs** that were to be bought for further solar power plants construction.

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Legal support in a project where the Client alienated part of **its energy assets in Ukraine**. The project embraced various legal issues, particularly, drafting transactional documentation, obtaining clearance from the Ukrainian Antitrust Regulator as well as for the successful closing of the transaction.

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Providing a full-scale support within a project where the Client acted as an **EPC-contractor and a lender of the project financing**.

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Comprehensive legal support for the **construction of wind power plants** in the south of Ukraine. This project is the largest one within Ukraine among those based **on international non-repayable financing**.

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Conducting full scope legal **due-diligence regarding solar power station and a biomass energy station** that were to be bought for further solar power plants construction and carve out of separate biomass energy business.

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# Intellectual Property Rights

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Representation of the leading international confectionary company on brand-management issues in Ukraine and EMEA/CIS region. The provided legal services included representation of the client's interests and coordinating actions before local and foreign patent offices and courts; carrying out negotiations with the holders of the opposed trademarks, obtaining letters of consents, drafting the tailored coexistence agreements; developing of different strategies for overcoming of provisional refusals.

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Preparation of complex analysis of data protection system of the leading manufacturer of drinking and mineral waters, further developing a full strategy of legal, organizational and technical measures for unified implementation of GDPR principles in all companies of the corporation in Ukraine and abroad.

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Representing interests of Swedish manufacturer of own developed and patented cladding systems before Ukrainian courts in a series of interrelated patent disputes, namely: legal proceeding regarding patent infringement committed by Ukrainian company as well as regarding invalidation of several patents for industrial designs.

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Legal counseling of **Johnson & Johnson Ukraine** in connection to national "celebrity endorsement" projects which included: IP structuring of a partnership between client and celebrity; consultancy services regarding "works-for-hire" creation and use; drafting agreements regarding services and works provision, creation and distribution of the advertisement, creation and use of various IP objects under the partnership conditions, advising on "lethargic licensing" and reputational covenants.

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Legal support of one of the largest distributor of electricity, natural gas and energy-related services Centrica plc. regarding Ukrainian part of transaction on acquisition of assets of Rokitt Inc. and their proprietary Rokitt Astra Technology. The key issue of the transaction were non-material assets, in particular IP rights to the unique database system.

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Advising of an innovative startup-company in the sphere of green electricity, developing and implementing IP strategy, which became an integral part of the company's business strategy with IP rights treated as the strategic corporate tool and a sound argument for allocation of public and private investments for further business development.

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# International Dispute Resolution and Arbitration

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Representing international company in a **USD 125 million** a dispute with a Ukrainian contractor in relation to a project carried out upon International Federation of Consulting Engineers (FIDIC) contracts and financed by a prominent international bank.

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Recognition and enforcement of a number of arbitral awards (under the New York Convention) to the total **amount of USD 13 billion** rendered against Ukrainian companies and Ukrainian subsidiaries of global companies in the territory of Ukraine.

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Representing an IFI in out-of-court and court proceeding on foreclosure of mortgage in connection with **over USD 50 million** debt collection under a loan agreement governed by English law.

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Representing the State of Ukraine and state-owned companies in a number of multimillion commercial and investment arbitration cases.

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# Real Estate and Construction

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Legal due diligence of a number of land plots in the course of the corporate audit of companies, which belong to a major international financial corporation. Services included the analysis of the land title and land leasehold as well as legal risks analysis on the third persons' land titles, land leasehold and land plots lease extension issues.

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Legal support for the development of the grain and oil sea terminal within the Illichivsk sea port. Representation of the client in the State Property Fund of Ukraine during the process of obtaining leases for warehouse objects in the **port of Illichivsk** for further constructions on the basis of leased property of the multifunctional sea terminal.

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Legal support of the development of the multifunctional grain hub (including two sea terminals and an oil extraction plant) within the **port of Yuzhny**. Advising the client on various land, construction and regulatory issue, representation of the client in state and municipal authorities.

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Legal support of a number of domestic and global, privately held and public developers, retailers, hotel operators, funds and corporations on various (commercial, agricultural, infrastructure and corporate) property acquisition (both share and asset deals), development and financing, built – to – suit, sale – and – lease back, property management and exit schemes, including acquisition and disposal of land plots, construction in progress, existing yielding properties and establishment of property development JVs and property litigation. The scope of work included but was not limited to legal due diligence, tax and legal structuring, establishment SPVs, structuring collaterals, drafting transaction documents incl. SPA, SHA and leases, obtaining necessary regulatory approvals incl. merger clearance etc.

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# Tax / Transactional and International Taxation

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## SERVICES

- tax planning and structuring of business projects and reorganizations;
- comprehensive tax support for acquisition or sale of business, in particular:
  - checks of the tax status of companies;
  - tax structuring of acquisition and sale of business and transaction financing;
  - tax aspects of transaction agreements and other documents
  - advice and representation in negotiations on tax aspects of transactions.
- advice on the preparation of tax returns and customs declarations;
- diagnostics (inspection) of Ukrainian companies on tax and/or customs issues;
- advice on compliance with the requirements for the application of tax benefits to payments to non-residents;
- preparation for and/or support of tax and customs inspections as well as administrative and judicial appeals against decisions of tax and customs authorities;
- advice, reporting and documentation on transfer pricing;
- drafting and/or amending draft agreements and other legal documents to prevent negative tax consequences;
- preparation of inquiries and receipt of tax clarifications on Ukrainian and international taxation as well as on transfer pricing;
- advice and assistance in obtaining tax residency certificates, tax payment certificates and other tax and legal documents;
- representation in tax and customs authorities of Ukraine;
- advice and assistance on other tax and/or customs issues.



# Tax & Customs Litigation

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Arzinger lawyers **successfully represented the interests of an international industrial company**, in a dispute on challenging additional VAT, corporate profit tax and personal income tax accruals amounting to **more than USD 11 mln.** Claims of the tax authority referred to the location of the industrial complex built by the client in the East of Ukraine in the area of the Anti-Terrorist operation. In this regard, according to the tax authority, the client allegedly started using the constructed fixed assets in transactions that are beyond its economic activities. Also, the claims of the tax authority applied to client's failure to provide a part of the primary documents lost as a result of the evacuation of the client's office premises after commencing of the Anti-Terrorist operation.

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Arzinger lawyers **successfully represented the interests of one of the largest international mining holdings**, in a tax dispute appealing tax notifications-decisions, by which additional corporate profit tax, VAT and land tax liabilities were charged and the amount of budgetary VAT refund was reduced for the client in the total amount exceeding **USD 6 mln.** During the work on project, Arzinger's lawyers managed to convince the court of the legitimacy of the client's actions and the absence of violations of the tax legislation for a number of episodes – transferring fixed assets to the city's municipal property, export of iron ore of client's own extraction, liquidation of fixed assets on the decision of the client etc. Also, during the work on the project, Arzinger's lawyers managed to gather a substantial evidence base, which enabled to convince the court of reality of the client's business operations with more than 60 contractors that, in the opinion of the tax authority, had been fictitious.

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Arzinger lawyers **successfully represented the interests of the client, a subsidiary of a large international agricultural holding**, in a tax dispute appealing tax notifications-decisions, by which additional VAT liabilities were charged and the amount of budgetary VAT refund was reduced for the client in the total amount exceeding **USD 2.6 mln.** Tax notifications-decisions were adopted on the grounds of the purchase of agricultural products by the client from 14 contractors that, in the opinion of the tax authority, have had attributes of fictitiousness.

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# White Collar Crime

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Representation of the local agent of a syndicate of European banks – a victim in six investigations in criminal cases on non-performance of credit agreements (**total volume of approx. USD 74 million**) and disappearance of collateral in different regions of the country.

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Release of the company's numerous assets from attachment in a criminal proceeding regarding officials due to an expertly developed legal position for defending pharmaceutical manufacturers in Ukraine. The investigation particularly concerned the alleged embezzlement of public funds in the amount of **EUR 500 million** allocated to support stability in the banking sector.

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Preventing unknown persons' criminal intents aimed at the fraudulent misappropriation of the client's funds in the amount of **over EUR 1.5 million**. The funds in the company's accounts were blocked, which allowed taking steps to return them to the owner.

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Arzinger's lawyers represent a large international agricultural trader, having suffered from its contractor's fraudulent actions and thus lost its products (in the **amount of USD 1,6 million**. Due to its effective and proactive cooperation with the investigation, the Client increased its chances to obtain compensation for the losses incurred and return its property. The pre-trial investigation is still ongoing.

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## HEAD OFFICE

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