



MEMU Supplement No.9-2007

Raiding in Ukraine: the case study

During the last five years there were nearly 2.5 thousands raiding actions in Ukraine, and their frequency has been steadily growing. Unfriendly captures are taking place in the form of semi-legal buying up of shares or as clearance of shareholders' groups, coercions, changes in top-management, subordination of law-enforcement bodies, and falsifications. Raiding is mainly aimed at getting property or land of the company, controlling production or liquidating a competitor.

The experience of the JSC Ukrrihflot Shipping Company is a good case study of the raiding conducted through the violations in the sphere of corporate governance typical for contemporary Ukraine.

Ukrrihflot is the largest river transport company in the country. In 2006 its net profit was UAH 24.3 m, and the revenue UAH 564 m. It owns nearly 200 ships, which transport cargo and passengers between 40 ports on different countries of Europe and Asia. Also, Ukrrihflot possess very attractive land lots along the river, ports and plants.

Speculations with company shares started in 2001 with the foundation of the CJSC "Labour Collective of JSC Shipping Company "Ukrrihflot", which overtook the shares of the work collective thus lowering the share of foreign investors to 17%. These actions entailed the sale of the whole foreign shareholding. The buying up of shares of minority shareholders without getting the mandatory permission of the general meeting and using funds of the company continued the series of actions aimed at getting control over the enterprise.

During next years the bought shares were exchanged for securities of illiquid enterprises. As a result, CJSC "Labour Collective" owned the shares of the bankrupt enterprises, whereas Invest-Trans Ltd. (closely connected to Ukrrihflot top-manager Mr. Pidlisnyi) got the shares of Ukrrihflot.

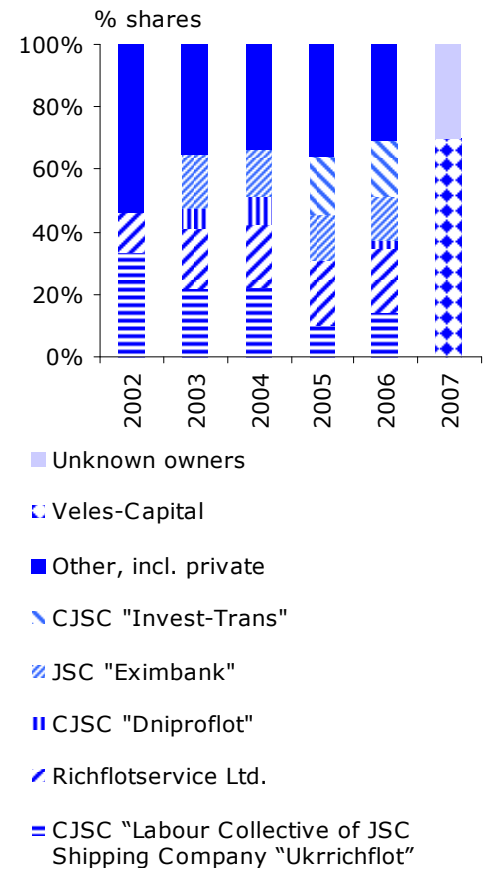
By the end of 2006 Mr. Pidlisnyi and his deputy Mr. Antipenko owned the control stake of Ukrrihflot: Invest-Trans 18.06%, Richflotservis 20.25%, Dniproflot 3.0%, CJSC "Labour Collective of JSC Shipping Company "Ukrrihflot" 14.1%, plus personal shares.

The top-management of the company did not have the right to exchange the bought shares and buy the shares of the own emission. They should have distributed them among existing shareholders or to sell on the open tender. Otherwise, the shares should have been canceled. Thus, in the case of Ukrrihflot there was a persistent violation of the law. The criminal cases were initiated, but the abuses weren't stopped. The investigation of claims of minority shareholders and variety of connected criminal cases against Mr. Pidlisnyi and the top-management took place in several regions and resulted in different legal decisions that were not implemented.

Meanwhile Russian investors found their way to get the company. In August the fact that Russian investment company Veles Kapital concentrated 70% of Ukrrihflot shares in the interests Mistobank and Group "Energy Standard" went public. The executive and the supervisory boards of the JSC Ukrrihflot Shipping Company voted for the new management in August 2007.

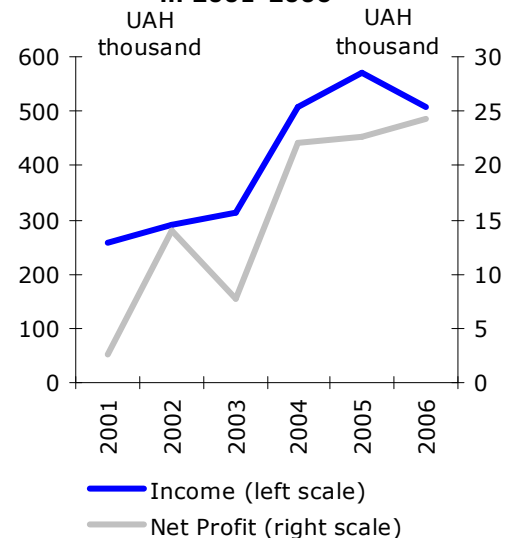
The case of the Ukrrihflot is not a single example of the violation of the corporate governance in Ukraine. Gaps in Ukrainian legislation allow top-management of the companies to infringe the rights of minority shareholders, exceed their authorities and violate property rights. Absence of the effective and clear corporate governance rules and procedures favours the rise of raiding and worsens investment climate in the country. The protection of rights of minority shareholders would not necessarily decrease the number of raiding attacks, because the main abuses are conducted during the judicial investigation of the violation when the control shareholding is blocked. The solution could be found in the changes of procedures and functioning of law-enforcement bodies of Ukraine.

Shareholders of CJSC Shipping company Ukrrihflot



Sources: www.smida.gov.ua, http://www.iplus.com.ua

Financial results of JSC Ukrrihflot in 2001-2006



Source: www.smida.gov.ua

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Quarterly trends

National accounts**		Q1 04	Q2 04	Q3 04	Q4 04	Q1 05	Q2 05	Q3 05	Q4 05	Q1 06	Q2 06	Q3 06	Q4 06	Q1 07
GDP	UAH bn	67.0	78.6	99.4	100.1	84.3	97.5	119.4	123.6	105.4	124.1	150.4	157.7	133.1
GDP (real)	% yoy	12.9	12.7	14.3	9.1	4.9	3.4	1.4	1.7	4.1	6.8	6.9	9.5	8.0
Households consumption (real)	% yoy	15.0	18.0	9.7	12.5	14.3	17.7	17.0	17.1	20.2	18.2	11.8	9.9	14.7
State consumption (real)	% yoy	1.7	1.3	3.9	0.9	6.1	0.0	1.0	4.0	9.6	5.8	5.8	1.0	0.8
Gross fixed capital formation (real)	% yoy	19.1	22.6	23.8	16.8	-2.3	-0.5	0.2	0.3	19.9	19.3	17.9	18.3	24.4
Exports of goods and services (real)	% yoy	19.1	21.1	14.3	11.7	-0.6	-14.0	-12.7	-15.5	-14.9	-9.6	3.2	1.0	4.9
Imports of goods and services (real)	% yoy	16.9	10.9	7.2	8.7	2.8	3.2	3.9	-0.9	10.7	0.9	8.3	6.4	12.9
Agriculture, hunting, forestry (real)*	% yoy	-4.7	0.2	35.6	11.3	5.8	8.3	2.6	-7.2	3.8	2.8	-5.6	8.1	4.8
Manufacturing industry (real)*	% yoy	21.5	15.0	9.9	6.9	7.0	1.8	-1.1	2.0	-1.5	6.1	7.3	7.2	15.0
Construction (real)*	% yoy	31.4	23.3	11.9	23.3	-8.4	-11.3	-8.5	-7.5	0.1	0.8	1.4	4.2	13.3
Trade, repair services (real)*	% yoy	25.0	17.4	13.9	2.5	-2.1	-10.7	-11.7	-11.9	6.2	16.4	20.0	21.9	14.3
Transport (real)*	% yoy	12.7	14.9	12.5	6.4	6.6	5.7	2.8	7.8	4.9	7.7	9.4	5.3	7.0
Balance of payments														
Current account balance	USD bn	1.4	2.3	2.1	1.1	1.6	0.6	0.4	-0.1	-0.8	0.0	0.5	-1.4	1.3
Current account balance	% of GDP	11.4	15.8	11.0	5.7	10.1	3.2	1.7	-0.4	-3.7	0.0	1.7	-4.3	5.0
Trade balance in goods	USD m	933	1552	774	482	1020	-236	-1131	-788	-1353	-935	-884	-2022	-1753
Trade balance in services	USD m	133	198	749	157	188	392	1035	191	219	506	1054	347	50
Current transfers	USD m	475	758	720	623	626	694	745	780	622	790	851	910	789
Direct investment (FDI)	USD m	333	614	420	344	247	365	477	6474	1053	1389	1636	1258	1162
Portfolio investments	USD m	449	149	1313	156	397	923	90	1347	4	-141	370	3350	1818
Gross international reserves	USD bn	7.9	9.6	12.1	9.5	12.0	13.1	14.3	19.4	17.3	17.6	19.1	22.3	23.5
Exchange rate, UAH/USD	aop	5.33	5.33	5.31	5.31	5.30	5.10	5.05	5.05	5.05	5.05	5.05	5.05	5.05
Fiscal indicators														
Consolidated fiscal revenues	% of GDP	27.2	26.9	26.3	25.9	32.1	35.1	31.5	31.0	31.2	31.7	31.9	32.8	33.3
Personal income tax	% of GDP	4.4	4.1	3.8	3.8	4.3	4.4	3.9	4.2	4.4	4.6	4.1	4.1	5.1
Enterprise profits tax	% of GDP	3.9	4.0	4.1	6.1	4.8	5.9	5.3	6.3	3.4	4.6	4.3	6.7	3.8
Value-added tax	% of GDP	6.2	5.7	5.1	4.1	8.6	9.2	7.9	7.3	9.2	9.2	9.7	9.3	10.4
Excise tax	% of GDP	2.1	2.1	2.0	1.8	2.0	2.0	2.0	1.7	1.8	1.7	1.5	1.5	1.8
Consolidated fiscal expenditures	% of GDP	25.3	26.5	26.8	35.2	28.3	36.4	28.1	41.7	30.9	32.8	29.4	36.6	28.4
Current expenditures	% of GDP	22.4	22.7	21.7	27.2	26.5	33.6	24.0	34.2	28.9	29.7	24.9	29.2	26.9
Capital expenditures	% of GDP	2.9	3.8	5.1	8.0	1.8	2.7	4.1	7.5	1.9	3.2	4.5	7.4	1.6
Consolidated fiscal balance	% of GDP	1.9	0.4	-0.5	-9.3	3.7	1.0	-5.0	6.2	-0.4	1.1	-2.4	4.0	-4.8
Privatisation receipts	% of GDP	1.5	3.7	3.5	1.0	0.2	0.6	0.6	16.0	0.1	0.1	0.1	0.1	0.5
Labour market														
Average wage (real)	% yoy	19.9	18.6	14.7	15.4	15.0	19.0	19.6	26.4	23.8	22.6	18.8	11.3	11.5
Household income (real)	% yoy	11.7	16.3	11.3	16.6	24.0	28.0	19.4	18.9	22.1	18.6	20.3	16.3	11.1
Unemployment rate (ILO methodology)	% cum	9.3	8.3	8.1	8.7	8.7	7.1	5.2	7.8	7.9	6.8	6.4	6.8	7.4
Banking system														
Monetary aggregate M0	% yoy cum	29.1	25.6	37.1	27.9	28.2	39.1	31.1	42.2	36.2	25.3	23.7	24.5	22.9
Monetary aggregate M2	% yoy cum	45.4	44.8	51.5	32.3	38.9	37.4	31.3	53.9	39.2	36.6	36.7	34.3	38.6
Household deposits in national currency	% yoy cum	69.4	67.3	67.9	26.2	28.3	31.6	30.4	90.8	54.6	41.1	39.7	37.3	50.7
Household deposits in foreign currency	% yoy cum	67.0	61.7	55.2	54.3	51.8	45.4	46.4	59.1	54.5	66.2	64.3	57.5	52.3
Com. bank credits in national currency	% yoy cum	56.8	52.1	44.3	29.4	28.3	32.6	43.4	58.7	59.8	53.7	49.0	52.3	52.4
Com. bank credits in foreign currency	% yoy cum	63.6	56.2	43.5	32.2	33.1	36.8	47.1	66.3	72.0	82.1	90.4	95.4	98.9
Long-term com. bank credits	% yoy cum	141.7	102.7	82.7	57.1	49.5	53.0	70.1	84.6	87.6	86.7	76.6	79.5	84.1
Long-term com. bank credits	% of total	47.4	49.3	50.9	54.2	54.4	56.1	59.7	61.8	63.1	63.4	63.5	64.9	65.8
Average lending rate on national cur. credits	% p.a.	17.2	16.6	17.0	17.6	17.0	15.4	15.4	16.4	15.8	15.5	14.6	15.1	14.0
Average lending rate on foreign cur. credits	% p.a.	12.2	12.1	12.6	12.2	12.1	11.0	11.3	11.7	11.5	11.3	11.3	11.5	11.5

SOURCES: National Bank of Ukraine, State Committee of Statistics, State Treasury, Ministry of Finance, IER estimates

* change in value added

** 2006 figures are preliminary

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