



Special to the Monitor

JUDICIAL PROTECTION OF COMMERCIAL INTERESTS IN UKRAINE

by Serhiy F. Demchenko, Deputy Chairman of the Highest Arbitration Court of Ukraine

The changes in the political regime in Ukraine has led to an increase in market relationships and economic ties with her numerous foreign partners. At the same time, the tumultuous process of drawing up new laws in order to regulate relationships in the various sectors of social life creates a situation with potential for an increased number of conflicts to arise involving commercial interests. Therefore the new directions in the political and economic life of Ukraine dictate the necessity not only for laws dealing with market institutions and the rules for their interactions, but also in the precise mechanism of these laws. Above all, I see the necessity to focus on the legal mechanism of resolving conflicts in the area of economic relations. All the more so because, in the process of studying the legal and judicial systems of

Canada, and having attended informative meetings with professionals in a number of provinces, I have come to realize that almost no one here is aware of judicial reform in Ukraine. Canadian businessmen have no idea about the system in place for the protection of their interests, or about recourse for infractions on their rights, in the courts of Ukraine.

Conditions in Ukraine have

themselves indicated the necessity for the protection of commercial interests, those held by foreigners being included in these numbers, by a specialized branch of the judicial system. The Arbitration Court has become this legal entity, its status having been confirmed by the Parliament of Ukraine on June 4, 1991. This legislative act stipulated that the Arbitration Court be that body responsible for implementing justice in



Canada's Justice Minister meets with members of a judicial delegation from Ukraine. L-r: Hon. Allan Rock; Volodymyr Stretovich, Chairman, Commission on Legal Policy & Law Reform; Volodymyr Stefanyuk, First Deputy Chairman of Ukraine's Supreme Court; & Anatoliy Yarema, Deputy Chairman of the Supreme Court.



Entire judicial delegation from Ukraine in Canada's Library of Parliament. L-r: Nina Romas, interpreter; A. Yarema, Deputy Chairman of the Supreme Court; Serhiy Demchenko, Deputy Chairman of the Highest Arbitration Court of Ukraine; V. Stretovich, Chairman, Commission on Legal Policy & Law Reform; Senator Gerald Beaudoin; Victor Shyshkin, Chairman of the Subcommittee on Judicial Reform, V. Stefanyuk, First Deputy Chairman of Ukraine's Supreme Court; & Christina Maciw, Legal Counsel, Council of Advisors to the Parliament of Ukraine.

situations involving commercial relationships. The Arbitration Court was established on the basis of the appointment to the bench of all judges of all arbitration courts, regardless of their rank, by the Parliament of Ukraine, that is, by the highest representative legislative body of the state. These Arbitration Courts administer justice on the principles of legality, independence - including from the Executive and Legislative bodies - and abidance to the law, recognizing the equality of both sides before the law and before the arbitration court, the arbitration process, the transparency of the process and the open consideration of cases, and the mandatory enforcement of judicial decisions. It is particularly worth noting that the fulfillment of these principles is to a large degree guaranteed by the appointment of judges for life, as well as by the absolute ban on