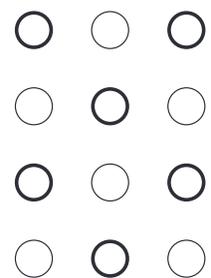




EASY BUSINESS:

# Using the courts to overcome governmental inaction and public apathy to overturn bad land policy



Ukraine



EasyBusiness' policy focus includes land market reform, investment and business climate improvement, and facilitating competitiveness & SME development among Ukrainian startups.



Long before EasyBusiness, a Kyiv-based freemarket think tank, mobilized the massive campaign to undo a Ukrainian law that banned the sale of farmland, the group's founders were on an elite team of government deregulators.

Back then, they flagged the country's drastic limitations on property rights as ripe for change, but government officials ultimately disregarded this recommendation.

## Property rights: Kyiv-based EasyBusiness leading the push for a free market for farmland

When the Ukrainian government decided to ignore calls for property reform, innovative leaders formed EasyBusiness, a free-market think tank, that created an infrastructure of researchers, litigators, and everyday citizens to open up the market for property owners to be able to freely buy and sell farmland that had previously been restricted.

### About Easybusiness

Founded in 2014, the mission of EasyBusiness is to improve Ukraine's business climate by providing economic research and independent policy recommendations based on the principles of free markets and competition. EasyBusiness' policy focus includes land market reform, investment and business climate improvement, and facilitating competitiveness & SME development among Ukrainian startups.

Courts, coalitions, and storytelling: How EasyBusiness generated the momentum to overturn a ban on farmland sales in Ukraine

So, EasyBusiness' founders decided to take up the fight for land reform seriously and started the work on a voluntary basis. Given the importance of this challenge to landowners, municipalities, and Ukraine in a whole, the team grabbed the opportunity to introduce a free farmland market in Ukraine.

Because of governmental unwillingness to pursue changes to land markets in Ukraine, EasyBusiness took its fight to the courts. EasyBusiness created a user-friendly online platform to give Ukrainian landowners the tools they needed to appeal to their local officials and the European Court of Human Rights, or ECHR, creating bottom-up pressure for the reform. This tool has helped landowners to make appeals to the local deputy or the ECHR.

"Courts can become very helpful partners in supporting important reforms," said Andrew Shpakov, CEO of EasyBusiness. "They are usually seen as independent and external parties that are capable of presenting an unbiased view of the problem in question. In our case, it worked out perfectly. Both the general public and politicians saw that the necessity of the free farmland market is not a libertarian fiction, but a direct requirement of the recognized international body that protects property rights. This decision made it easier to advocate for the implementation of the land reform."

Here's how EasyBusiness' work opened up land markets in Ukraine:

- **A new precedent.** EasyBusiness' efforts led to a favorable ruling from the ECHR, providing a credible precedent for the 7 million affected landowners to assert their rights. The think tank estimates the liberalization of this market may bring as much as \$100 billion USD to the economy in the long-term. It also estimates the moratorium prevents anywhere from \$500 million to \$600 million USD of foreign direct investment and roughly \$10 billion USD of potential GDP growth per year.
- **Change from within.** Shortly following the court's decision, 69 Members of the Ukrainian Parliament submitted a case to the Constitutional Court of Ukraine to admit that the moratorium violates the Ukrainian Constitution. The Ministry of Justice in Ukraine also convened a working group—including EasyBusiness—and charged that group to develop an effective mechanism of launching a formal farmland market in Ukraine.

## Key Takeaways

Without EasyBusiness' efforts in Ukraine, the country's landowners would still have no hope of overturning the restrictions that prevent them from freely buying and selling farmland.

EasyBusiness' land market reform campaign offers lessons on how to:

- Ripen an issue when politicians are too scared to act and the public buys into a false narrative
- Bring in and leverage outside experts to advance your cause
- Leverage and share powerful personal stories to show why your reform is needed



- **The full force of a reform movement.** EasyBusiness performed comprehensive policy research, built a coalition of experts from the ground up, and has already aided more than 500 Ukrainian landowners through their online platform, mobilizing a powerful brain trust and grassroots movement.

## EasyBusiness — “One decision that ended 18 years of pent-up economic freedom in Ukraine”

Ukraine ranks last in economic freedom among the 44 European countries, according to the Heritage Foundation's 2019 Index of Economic Freedom. One of the freedoms most infringed upon is property rights. About 7 million landowners in Ukraine are legally prohibited from selling their land, making Ukraine the only democratic state where people are barred from freely disposing of their property.

This 15 percent of the population owns 70 percent of the land, much of which is underutilized. The moratorium on the sale of agricultural land in the country has been a hot-button issue for many years until very recently, when Kyiv-based EasyBusiness backed a successful lawsuit in the European Court of Human Rights, or ECHR.

Like many policies that ultimately cause harm, restrictions on Ukraine's farmland market was born of good intentions. Land was given out as reparations for suffering under the former Soviet communist regime, and the new government created laws that prohibited that land from being sold as a way to protect the new land owners from pressure to sell. But years later, one of the byproducts is that many landowners own parcels of land they can't afford to maintain—but they can't do anything else with them either. They can't sell, and they can't use their property as collateral in commercial ventures. They've become "land poor."

Several Atlas Network partners have engaged in this issue in Ukraine, and EasyBusiness has been a leading voice in providing credible paths toward land reform and in popularizing the idea of a free market for farmland. Over four years the group developed a comprehensive policy research program, a roadmap for land market reform, and facilitated a broad communications strategy to reach both experts and everyday Ukrainians who were not familiar with the issue.

The group also launched [www.farmland.in.ua/](http://www.farmland.in.ua/), a website to help landowners file applications to the ECHR challenging the constitutionality of Ukraine's land sales ban. Over 500 applications were submitted through the platform, two of which were actually considered by the ECHR, where EasyBusiness then became a third party to provide expert economic and legislative background as an independent think tank.

In May 2018, the two Ukrainian landowners won their case at the ECHR against the Ukrainian

government. Soon after ECHR's ruling, 69 Members of the Ukrainian Parliament submitted a case to the Constitutional Court of Ukraine to admit that the country's so-called moratorium on farmland sales violates the Ukrainian Constitution.

EasyBusiness estimates that reforming Ukraine's ban on land sales may bring as much as \$100 billion USD to the economy in the long-term. It also estimates the moratorium prevents anywhere from \$500 million to \$600 million USD of foreign direct investment and roughly \$10 billion USD of potential GDP growth per year.

## THE CONTEXT: A democracy without full property rights

Due to the moratorium on free farmland sales in Ukraine, 7 million farmland owners (comprising 15 percent of Ukraine's total population) who own 28 million hectares of farmland plots (70 percent of Ukraine's total farmland) cannot freely dispose of their farmland plots. This human rights violation means Ukraine is the only democratic state worldwide (along with Venezuela, Cuba, Tajikistan, and North Korea), where the moratorium on farmland sales still exists.

To change this, EasyBusiness faced a steep uphill battle with many challenges:

- A lack of awareness among local authorities and landowners regarding the benefits



of a free farmland market for the economy and landowners themselves (only 18.8 percent of Ukrainian population are well informed regarding the reform specifics).

- Biased public perception of the reform, caused by aggressive media campaigns from populist political parties (only 32.4 percent of Ukrainian population supported the land reform at the outset of the EasyBusiness campaign).
- Lack of political support for the conduction of land reform overall, and abolishment of a moratorium on free farmland sales, in particular, that is correlated with an influx of populism in Ukraine.

Despite these challenges, EasyBusiness found innovative ways to turn the tide in favor of reform and freedom. Read on to learn how EasyBusiness was able to ripen their cause in Ukraine.

## LESSON: How to ripen an issue when politicians are too scared to act and the public buys into a false narrative

“Generally speaking, the land reform campaign was a special case that combined low public support for a free market and reluctance from politicians to take any active measures,” said Andrew Shpakov, CEO of EasyBusiness. “The public did not understand the tangible benefits of the reform and were scared that ‘foreign interests will buy out all Ukrainian farmland.’ Meanwhile, the politicians mostly abstained from the land matters as it was politically toxic and could harm their political image.”

What to do when you’re working against a well-established—but incorrect—narrative?



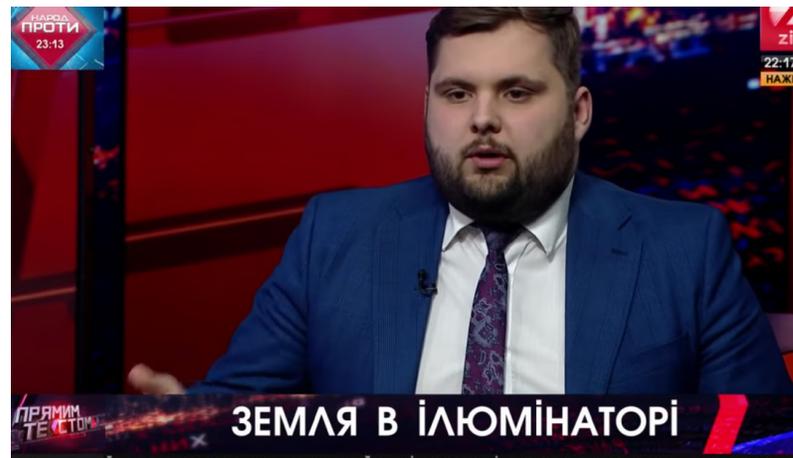
“Landowners in Ukraine like Viktor Tsytsyura—whose successful case was heard by the ECHR—simply want the right to sell their land.”



EasyBusiness started by establishing a new baseline, armed with facts and data.

Their research started with an analysis of 60 countries to explain the benefits of land reform. EasyBusiness’ team became the “myth busters” who were uncovering the truth about free markets. They showed how everyday Ukrainians are harmed by the ban and how a free market would create massive economic benefits for Ukraine and its people.

This new research garnered a lot of media attention and moved government influencers, but EasyBusiness still had a long way to go convincing the general public and specifically the landowners who would benefit most from reform. So the group launched a new initiative to mobilize open-minded landowners to appeal to the European Court of Human Rights, or ECHR.



A new website, [farmland.in.ua](http://farmland.in.ua), allowed landowners to file applications to the ECHR— ultimately, EasyBusiness received a groundswell of more than 500 landowner applications appealing to the court, resulting in a collective suit. ECHR became a third party to provide expert economic and legislative background. Overall, these efforts unlocked a range of new opportunities and created a feasible balance of powers.

## LESSON: The importance of a coalition and partnerships when it comes to advancing your cause

Transformative policy change can't happen without allies. Unfortunately, at the outset it was difficult for EasyBusiness to find partners who fully supported the free-market farmland

Sofia Zelenchuk and Viktor Tsytsyura were two of those landowners, and after using EasyBusiness' online portal to appeal to the ECHR, they ultimately became the two plaintiffs in the case against the Ukrainian government—and won.



model for Ukraine. They were fortunate, however, to find partners who supported the general idea of opening up the sale of farmland in Ukraine.

“Only later did we promote our idea of an open farmland market among all our partners,” said Andrew Shpakov, CEO of EasyBusiness. “This approach helps to consolidate as many partners to ultimately help with advocacy of the reform.” EasyBusiness was also fortunate to have fellow Atlas Network experts to turn to for this fight. EasyBusiness was able to tap partners including the Centre for Economic Strategy, Ekonomichna Pravda, Ukrainian Economic Freedoms Foundation, and others for help spreading the word. These partners were able to lend another credible voice to the cause of land reform by taking part in the public submission of a complaint to the Constitutional Court of Ukraine claiming that the moratorium is illegal, among other major lifts.

## LESSON: Stories matter

For EasyBusiness, this campaign required not only the support and partnership of other research and advocacy organizations, but also help from landowners themselves. Because it wasn't clear to many in the public how Ukraine's





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land sales restrictions were affecting their countrymen, EasyBusiness shared the stories of those affected to create momentum behind the cause of reform.

The group’s <https://farmland.in.ua> online portal helped identify landowners who wanted to join the fight.

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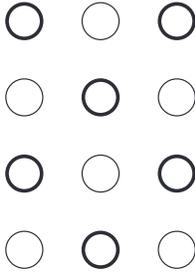
EasyBusiness told the story of 79-year-old Viktor, who received his property certificates from the government in 2008. In his old age, Viktor can no longer work the land and would prefer to sell it so he can retire comfortably. Ukraine’s ban on farmland sale forces him to stay on property he can’t afford. By elevating Viktor’s story, EasyBusiness showed the public the victims of

bad land policy. They also provided an avenue for Viktor to become an active participant in the reform movement—he attended the group’s public educational events and communicated frequently with EasyBusiness team members over the phone during the fight. Viktor even came to Kyiv to participate in a panel discussion with politicians, activists, and experts. EasyBusiness’ video featuring Viktor’s story was viewed more than 100,000 times on social media.

## The path to victory

The fight to end Ukraine’s ban on farmland sale isn’t over, but thanks to EasyBusiness’ efforts and victory in the European Court of Human Rights, 7 million land owners in that country are much closer to a free market and relief from constraints on their property rights.

EasyBusiness is poised to carry this fight to the finish line.



# Points to Ponder

1. Are there laws in your country that prevent free exercise of property rights? What are they and who are the people who are affected most?
2. Does your think tank participate in taking legal action against the government? Why or why not? Are there coalition allies who could be helpful to you in this way?
3. How can you go about finding people whose lives would benefit from the reforms you advocate? How can you tell their stories effectively?
4. How can you make the case that property rights are just as important as civil and human rights when it comes to protecting yourself and your livelihood from government restrictions and abuse?

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