



ANNUAL REPORT

ADVOCATING FOR BUSINESS WITH THE GOVERNMENT

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The BOC and the Council are used interchangeably throughout the text to refer to the Business Ombudsman Council



Dear Friends, Colleagues, and Partners,

I am pleased to present the Business Ombudsman Council's 2016 Annual Report.

This year, we have firmly established ourselves as the voice of Ukrainian entrepreneurs in fighting corruption and progressed in laying groundwork for more transparent and sound regulatory framework.

In 2016, the Council received 868 complaints, 48% more than in 2015. Of those, we undertook 603 investigations and closed 570 cases – most with financial or non-financial results. Our operations yielded UAH 5.96 billion of financial impact in the reporting year alone, with the overall financial effect since operations launch exceeding UAH 8.67 billion. 94% of complainants said they were satisfied with working with us.

City of Kyiv, with 43% of complaints launched, remained the most active region, followed by Kyiv, Kharkiv, Odesa, Dnipro, and Lviv Oblasts. Tax issues were subject of 49% of all complaints received remaining the most pressing in 2016. We signed 5 memoranda and launched productive cooperation with National Anti-Corruption Bureau of Ukraine, Ministry of the Environment and Natural Resources, Kyiv City State Administration, National Police of Ukraine, and National Agency on Corruption Prevention.

The year ended with 87% of the 516 issued recommendations implemented – an all-time high in our history.

It was reassuring to see more than 90% of our recommendations implemented by the agencies whose actions triggered a significant number of complaints: State Fiscal Service, Ministry of Justice, Ministry of Economic Development and Trade, State Security Service, and Ministry of Agrarian Policy and Food.

To supplement recommendations issued with in-depth expertise and legislation amendment advice, our team publicized the following systemic reports: "Challenges and problems in the sphere of competition protection and oversight"; "Reducing the risk of corruption and attracting investment to the construction industry"; "Abuse of powers by the lawenforcement authorities in their relations with business"; "Natural monopolies vs Competitive business: how to improve relations".

To maintain transparency and open dialogue with the public and the media, the Council participated in more than 200 outreach events producing around 10,000 constructive mentions. My working visits program included 10 regions and is ongoing.

Since the first day of operations, we have supported Ukrainian business in pursuit of the overdue justice using transparency, the rule of law, and constructive dialogue with the government. The growing number of complaints, closed cases, implemented recommendations, and satisfied complainants means this effort is paying off. Business is evolving from being overlooked in voicing their problems to becoming a powerful force to be reckoned with, and the Council is adamant to continue supporting it all the way.



Algirdas Šemeta

Business Ombudsman of Ukraine





OUR OFFICE



1.1. What is a Business Ombudsman?

"Ombudsman"

is a Swedish word meaning "citizen's representative" – an independent official who investigates complaints from the public about mal-administration in the government. The first parliamentary ombudsman was created in Sweden in 1809.

DECEMBER 2014

Ukraine's Business Ombudsman Council was first established.

ALGIRDAS ŠEMETA,

former European Commissioner and Minister of Finance of Lithuania, has been acting as the Business Ombudsman in Ukraine since then. MAY 20, 2015

The Business Ombudsman Council officially launched its operations.



WHAT IS THE BUSINESS OMBUDSMAN COUNCIL IN UKRAINE?



The Business Ombudsman Council

is an independent permanent advisory body of the Cabinet of Ministers of Ukraine, with a mandate to help establish a transparent business environment and prevent corruption at the central and local government levels, and in state-owned and state-controlled enterprises. The Council is meant to be the initial point of contact for companies seeking redress against unjust treatment.

THE BOC IS FUNDED



through the Ukraine Stabilisation and Sustainable Growth Multi-donor Account set up by the European Bank for Reconstruction and Development (EBRD) in 2014.

THE DONORS OF THE MULTI-DONOR ACCOUNT FOR UKRAINE INCLUDE





Poland

the Netherlands

Sweden

Switzerland

the United Kingdom

C

the United States



the European Union

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THE SUPERVISORY BOARD

The Council's governing body includes authorized representatives from three blocks:

INDEPENDENT BUSINESS ASSOCIATIONS:

the American Chamber of Commerce (ACC), European Business Association (EBA), the Federation of Ukrainian Employers (FUE), the Ukrainian Chamber of Commerce and Industry (UCCI), and the Ukrainian League of Industrialists and Entrepreneurs (ULIE)

Sevki Acuner, EBRD Director in Ukraine, has been elected to chair the Supervisory Board.

INTERNATIONAL FINANCIAL NSTITUTIONS:

the EBRD, Organization for Economic Cooperation and Development (OECD)

GOVERNMENT AGENCIES:

The Cabinet of Ministers

1.2. Our mission and goals

Facilitate the fight against corruption and other business abuse

Contribute to greater investment attractiveness of Ukraine Promote a public service culture of fairness, openness and accountability

OUR GUIDING PRINCIPLES

INDEPENDENCE

NEUTRALITY

ACCESSIBILITY

OPENNESS AND TRANSPARENCY

ACCOUNTABILITY

INTEGRITY

CONFIDENTIALITY

1.3. Who we are

The Business Ombudsman Council includes the Business Ombudsman, two Deputies, and other staff that the Council may hire, as the need arises, in accordance with current regulations.

At the end of the reporting period, the Council's team consisted of



employees

distinguished experts with mostly western education and practical experience in law, strategic management, economics, auditing, and risk management.

* including one disabled person working remotely

COUNCIL

BUSINESS OMBUDSMAN



Algirdas Šemeta

BUSINESS OMBUDSMAN'S DEPUTIES



laroslav Gregirchak



Tetyana Korotka

SECRETARIAT

INVESTIGATORS















JUNIOR INVESTIGATORS









COMMUNICATIONS ADMINISTRATIVE STAFF











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1.4. What we do



14

1.5. How we work

1. ASSESS YOUR COMPLAINT

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Complainant can submit his/her inquiry electronically (via email or website) or bring the documents directly to our office.

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We inform you about our decision as to whether to start investigation or reject a complaint within 10 working days from the day of its receipt.



We may request you to provide additional information or documents that in our opinion are necessary to assess the admissibility of the complaint.

2. INVESTIGATE YOUR COMPLAINT

We start examining your complaint in more detail. We are entitled to obtain further information from you and from the public bodies that is vital for complaint review.

You shall be given response within 3 months from the date on which we initiated the investigation, although we do our best to close investigations sooner than the regulation requires.

We cooperate with you during the investigation stage and keep you updated.

3. ISSUE AND MONITOR RECOMMENDATIONS

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We issue recommendations to the government agencies regarding your matter.



We can also pass the case to Anticorruption Bureau and draw attention of the President or Prime Minister to the issue.

or repeated failure on the part of certain agencies to address issues that negatively affect business in Ukraine, we are in a position to bring such issues to the attention of the public, either through periodic reports published on the Council's website, or through the press.

the implementation of all recommendations issued to government agencies until they are properly implemented.



REPORT HIGHLIGHTS AT A GLANCE



170 (30%)

discontinued

cases



UAH 5 958 695 019 direct financial impact in 2016



implemented (2015-2016)

94% of complainants

are satisfied with working with the BOC

5 memoranda signed

4 systemic reports publicized

TOP-5 INDUSTRIES:





20% 19% wholesale and manufacturing distribution



8% agriculture and mining





7% real estate and construction

SIZE OF BUSINESS:



FOREIGN/ LOCAL:



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3.1. Volume of complaints received

(Clause 5.3.1 (a) of Rules of Procedure)



In 2016, the Business Ombudsman Office received 868 complaints. The biggest number of complaints came in November (107) and July (96). The fewest complaints were received in January (35).

It should be noted that the BOC announced the launch of its operations on May 20, 2015.





We observed a 48% rise in the volume of complaints in 2016 compared to 2015.

III QUARTER

IV QUARTER

23

59

24

3.2. Nature of complaints received

(Clause 5.3.1 (a) of Rules of Procedure)

Analysis of complaints received in 2016 demonstrates that Ukrainian businesses most frequently came across such key problems.



TOP-10 SUBJECT OF COMPLAINTS RECEIVED IN 2016*

49%Tax issues

- **8%** Deficiencies in regulatory framework
- **8%** Actions of state regulators
- **7%** Actions of local councils/municipalities
- **5%** Customs issues
- 4% National Police issues
- **3%** Prosecutor's actions
- **3%** Ministry of Justice actions
- **3%** Actions of state companies
- **2%** State Security Service actions

*Breakdown is based on all complaints received by the BOC, including the dismissed ones.



The first parliamentary ombudsman was established in Sweden in 1809. Eventually, the post was introduced in Finland (1919), Norway (1952) and Denmark (1953).

DETAILED BREAKDOWN OF COMPLAINTS' SUBJECT MATTER







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3.3. Timeliness of the preliminary review of complaints

(Clause 5.3.1 (b) of Rules of Procedure)



26%

42%

32%

2016

N0//

52%

28%

Number of complaints reviewed less than in 5 days:

Number of complaints reviewed in 5-10 days:

Number of complaints reviewed in more than 10 days: The biggest part of complaints (68%) was reviewed during 10 or fewer working days, which meets the 10-day period for preliminary complaint reviews provided in current regulations. The delay in response was mostly caused by the slow feedback from complainants and necessity to thoroughly analyze additional documents that complaints sent upon responsible investigator's request.

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2015

3.4. Number of investigations conducted and reasons for declining complaints

(Clause 5.3.1 (c) of Rules of Procedure)

NUMBER OF INVESTIGATIONS CONDUCTED



BOC undertook

investigations

complaints

received

were dismissed as not fitting

the Council's eligibility criteria or remained at the stage of preliminary

assessment at the end of 2016.

2016

of

In 2016, the BOC undertook 603 investigations out of 868 complaints received (69%), which is 11 percentage points more than in 2015.

2015 BOC undertook 342 investigations



<u>189</u>

Investigations in process of investigation at the end of reporting period

128 Cases discontinued

e.g., the complainant resolved the subject matter in another manner, did not provide sufficient cooperation, brought a case before the court, etc.

244

Cases closed with result whether financial or non-financial

42 Cases closed with recommendations subject to further monitoring



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BREAKDOWN OF INITIATED INVESTIGATIONS ON A MONTHLY BASIS:



The biggest number of investigations in 2016 was initiated in November (71) and July (69).



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THE BREAKDOWN OF CLOSED INVESTIGATIONS ON A MONTHLY BASIS IS AS FOLLOWS:



The biggest number of cases was closed in December (72), November and April (60 cases each).



DISMISSED COMPLAINTS:



The trend testifies that awareness about the BOC's eligibility criteria is growing: in 2015, we had to dismiss 41% of all complaints received vs. only 27% in 2016.

The main reason to overturn the complaints were inquiries outside Business Ombudsman's competence, complaints subject to court or arbitral proceedings and lack of cooperation on behalf of the complainant.

CHECK IF YOUR COMPLAINT MEETS THE COUNCIL'S CRITERIA:



TOP-10 REASONS FOR COMPLAINTS' DISMISSAL

	Overall dismissed in 2016	1 QUARTER	2 QUARTER	3 QUARTER	4 QUARTER
Complaints outside Business Ombudsman's competence	45	6	4	11	24
Complaints subject to any court or arbitral proceedings, or in respect of which a court, arbitral or similar type of decision was made	43	7	10	14	12
In the opinion of the Business Ombudsman, the complainant did not provide sufficient cooperation	29	8	6	8	7
Complaint doesn't comply with the other eligibility criteria	24	6	7	9	2
Complaints arising in the context of private-to-private business relations	17	2	8	3	4
Complaints in connection with the legality and/or validity of any court decisions, judgments and rulings	16	1	9	3	3
The complaint had no substance, or other agencies or institutions were already investigating such matter	11	1	2	5	3
The party affected by the alleged business malpractice has not exhausted at least one instance of an administrative appeal process	10	4	1	3	2
Other circumstances where the Business Ombudsman, in his sole and absolute discretion, determines that an investigation of the complaint is not necessary	8	0	8	0	0
Following the preliminary review, the BOC decided to leave the complaint without any further consideration	6	0	1	2	3

3.5. Timeliness of conducting investigations (Clause 5.3.1 (d) of Rules of Procedure)


	1 QUARTER Q	2 UARTER C	3 QUARTER (4 QUARTER	2016	2016%	2015%
5-30 days	0	0	0	11	11	2%	3%
30-90 days	20	46	71	57	194	34%	26%
91-120 days	51	61	32	68	212	37%	40%
121-180 days	36	32	9	38	115	20%	27%
180+ days	16	7	7	8	38	7%	4%
Overall cases closed	123	146	119	182	570		

In this reporting period, it took on average 103 days to close each case.

The biggest part of cases (73%) was closed in the timeframe of up to 120 days.

Cases lodged to the BOC became more complex, which required analysis of additional documents and a range of meetings to finalize the matter. Yet only 7% of cases took over 180 days to investigate.

3.6. Government agencies subject to the most complaints

GOVERNMENT AGENCIES SUBJECT TO COMPLAINTS IN 2016

- **182 55%** State Fiscal Service of Ukraine
 - 10% Local councils and municipalities
 - 4% National Police of Ukraine
 - **4%** Prosecutor's Office of Ukraine
 - **3%** Ministry of Justice of Ukraine
 - **3%** State Enterprises
 - **2%** State Security Service of Ukraine
 - **2%** Parliament, the Cabinet of Ministers, the President of Ukraine
 - 2% Ministry of Agrarian Policy and Food of Ukraine
 - 1% Ministry of Ecology and Natural Resources of Ukraine
 - 1% State Funds
 - **1%** Ministry of Internal Affairs
 - **8 1%** Ministry of Economic Development and Trade of Ukraine



The word "ombudsman" comes from an old Scandinavian word meaning "authority" and "assignment." This kind of post has been around for 208 years already.

KEY GOVERNMENT AGENCIES SUBJECT TO COMPLAINTS IN 2015:



- 6 State Fiscal Service of Ukraine
- Local councils and municipalities
- Ministry of Justice of Ukraine
- Prosecutor's Office of Ukraine
- Parliament, the Cabinet of Ministers, the President of Ukraine
- Ministry of Internal Affairs
- State Enterprises
- Ministry of Infrastructure of Ukraine
- Ministry of Economic Development and Trade of Ukraine
- State Security Service of Ukraine
- Ministry of Ecology and Natural Resources of Ukraine
- Ministry of Health of Ukraine
- Ministry of Agrarian Policy and Food of Ukraine
- State Funds

GOOD TO KNOW

The companies who filed complaints with the BOC produced goods and services worth more than UAH 450 billion in 2015, which is 11.3% of all goods and services produced in Ukraine. Of this, 18.3% were goods and services made in the information and telecommunications sector, 16.0% were in manufacturing, and 14.6% were in wholesale and retail trade.

OTHER COMPLAINEES IN 2016 INCLUDE:



Commercial and other courts	10
Ministry of Regional Development	7
Antimonopoly Committee of Ukraine	7
Ministry of Finance of Ukraine	7
Ministry of Infrastructure of Ukraine	6
Ministry of Social Policy and Labour of Ukraine	6
National Commission for State Regulation of Energy and Public Utilities	5
National Bank of Ukraine	4
State Service of Ukraine on Food Safety and Consumer Protection	3
Ministry of Health of Ukraine	3
Ministry of Defence of Ukraine	2
NABU	2
Ministry of Energy and Coal Industry of Ukraine	1
Ministry of Education and Science of Ukraine	1
National Council of Ukraine on Television and Radio Broadcasting	1
Other	27

40



3.7. Geographical distribution of complaints received



Complaints came to the BOC from all regions of Ukraine.

Kyiv was the most active region in terms of number of submitted complaints (371).

This reflects the nationwide geographical structure of registered businesses, most of which are registered in the capital region. In descending order, complaints also came from **Kyiv (94), Kharkiv (51), Odesa (41), Dnipro (40)** and **Lviv (34)** regions. The fewest complaints were lodged in the **Crimea (1)** and **Vinnytsya (4)** region.

MAIN SUBJECTS OF COMPLAINTS AND COMPLAINEES IN THE REGIONS UKRAINE

	MAIN COMPLAINEES (TOP-3)		I	MAIN SUBJECT OF COMPLAINTS(TOP-3)
Kyiv					
371	Prosecutor's Office of Ukraine	14		Criminal proceedings initiated by SFS	30
	and municipalities	35	(Other tax issues	42
	State Fiscal Service	215	-	Tax inspections	49
	Total complaints in 2016				
	Cases opened in 2016	(Cases closed in 2016		





51 33 34

41 25 20

State Fiscal Service	66
and municipalities	6
Local councils	
of Ukraine	5
Prosecutor's Office	
Kyiv region	

MAIN SUBJECT OF COMPLAINTS (TOP-3)

Dilatory VAT refund	11	
Termination of agreement on recognition of electronic		
reporting	12	
Problems with electronic VAT administration		

Kharkiv region

State Fiscal Service	31
Ministry of Social Policy and Labour of Ukraine	4
Local councils and municipalities	3

Other tax issues	9
Other state regulator's actions	6
Dilatory VAT refund	5

Odesa region

State Fiscal Service	21
municipalities	5
Local councils and	
of Ukraine	4
Prosecutor's Office	

Other tax issues	6
Tax inspections	4
Dilatory VAT refund	4

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State Fiscal Service	18	delay/refusal
of Ukraine	5	Customs clearance
National Police		Dilatory VAT refund
State Enterprises	4	Customs valuation
Dnipro region		

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20 13			Tax inspections	7
34	State Fiscal Service	14	actions	5
	municipalities	4	Other state regulators	
	Local councils and		other issues	3
	State Enterprises	2	Local councils/municipaliti	ies –
	Lviv region			



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State Fiscal Service	17
Other agencies	4
of Ukraine	1
Parliament, the Cabinet of Ministers, the President	

initiated by SFS Dilatory VAT refund	3
Problems with	
electronic VAT	

Zhytomyr region

State Fiscal Service	5
municipalities	4
Local councils and	
and Food of Ukraine	3
Ministry of Agrarian Policy	

Dilatory VAT refund	4
Other issues	2
land plots	2
municipalities – allocating	
Actions of local councils/	

Zaporizhzhya region

19 17 15	State Fiscal Service
	Local councils and municipalities
	Ministry of Agrarian Policy and Food <u>of Ukraine</u>

Other tax issues	4
Tax inspections	2
initiated by SFS	2
Criminal proceedings	

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Donetsk region

State Fiscal Service	8
State Enterprises	3
State Funds	2

Deficiencies in regulatory	
framework – other issues	2
State companies –	
other actions	2
Other state regulator's	
actions	2



Cherkasy region

State Fiscal Service	9
and municipalities	2
Local councils	
courts	1
Commercial and other	

Criminal proceedings initiated by SFS	4
Dilatory VAT refund	3
Tax inspections	2



Poltava region

State Fiscal Service	7
municipalities	2
Local councils and	
of Ukraine	2
and Natural Resources	
Ministry of Ecology	

Other tax issues	2
Other state regulator's	
actions	2
Termination of agreement	
on recognition of electronic	
reporting	2

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	14
	10 13

Volyn region

State Fiscal Service	10
municipalities	3
Local councils and	
of Ukraine	1
Prosecutor's Office	

Dilatory VAT refund	4
Other tax issues	3
other issues	2
Local councils/municipalities	_



Kherson region

State Fiscal Service	9
of Ukraine	2
Prosecutor's Office	
municipalities	1
Local councils and	

Deficiencies in regulatory
framework - tax2Dilatory VAT refund2Problems with electronic
VAT administration3

14 12 7

Sumy region

State Enterprises	1
State Service of Ukraine on Food Safety and Consume	er
Protection	1
State Fiscal Service	7

Other state regulator's	
actions	2
Customs clearance delay/refusal	2
Dilatory VAT refund	2



Ivano-Frankivsk region

State Fiscal Service	7
of Ukraine	2
Ministry of Infrastructure	
National Police of Ukraine	2

Dilatory VAT refund	1
Other tax issues	2
Tax inspections	2



Khmelnytsky region

State Fiscal Service	5
municipalities	2
Local councils and	
of Ukraine	1
of Ministers, the President	
Parliament, the Cabinet	

Other state regulators'	
actions	2
Dilatory VAT refund	2
Tax inspections	2

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Ministry of Regional	
Development	1
Local councils and	
municipalities	2
State Fiscal Service	5

Dilato	ry VAT refund	3
other is	sues	2
Local c	ouncils/municipalities	_
Tax ins	pections	1



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Antimonopoly Committee of Ukraine 5		
municipalities	1	
Local councils and		
State Fiscal Service	1	

Actions of local councils/ municipalities – other issues	3
land plots	2
municipalities – allocating	2
Actions of local councils/	
Other tax issues	1

Kirovograd region

State Fiscal Service	
State Enterprises	2
Ministry of Agrarian Policy and Food of Ukraine	1

Other tax issues	3
framework – other issues	1
Deficiencies in regulatory	
initiated by SFS	1
Criminal proceedings	



8

Lugansk region

State Fiscal Service	4
municipalities	2
Local councils and	
State Security Service	1

Dilatory VAT refund	
other actions	
State Security Service –	
ATO budget compensations	

Zakarpattya region



State Fiscal Service	
Ministry of Infrastructure of Ukraine	
State Funds	1

regulators	
framework – state	-
Deficiencies in regulat	ory
Customs – other issues	1
initiated by SFS	1
Criminal proceedings	



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Ministry of Justice	1
Other agencies	2
State Fiscal Service	3

administration	1
Deficiencies in regulator	V
framework – other issue	-



Rivne region	
State Security Service	1
State Service of Ukraine on Food Safety and	
Consumer Protection	1
State Fiscal Service	2

Prosecutors' office –	
other issues	1
State Security Service	
procedural abuse	1
Tax inspections	1

Vinnytsya region

4
34

State Fiscal Service	1
Other agencies	1
municipalities	1
Local councils and	

Other tax issues	1
Other issues	1
Permits and licenses:	
environment/subsoil	1

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3.8. Financial and non-financial impact

TOP-10 SUBJECT MATTERS OF BOC'S INVESTIGATIONS* IN 2016:

	2015	2016
Tax inspections	57	69
Dilatory VAT refund	42	69
Other tax issues	27	65
VAT electronic administration	19	45
Criminal proceedings initiated by SFS	29	40
Termination of agreement on recognition of electronic reporting	22	38
State regulators – other issues	41	36
Deficiencies in regulatory framework – local councils/municipalities	11	20
Local councils/municipalities – other issues	18	17
Deficiencies in regulatory framework – other issues	40	14

*Breakdown is based on all investigations undertaken by the BOC (603). Dismissed complaints and cases that were in preliminary assessment as of 31 December 2016, are not included.



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	2015	2016	Total
Dilatory VAT refund	396 401 395	4 187 062 935	4 583 464 330
ATO compensation	2 094 325 977	0	2 094 325 977
Tax inspections	114 444 653	885 256 737	999 701 390
Natural Monopolies – other issues	0	643 560 043	643 560 043
National regulatory agencies: NERCUS	77 082 709	114 699 575	191 782 284
Other actions of state regulators	12 302	56 088 069	56 100 371
VAT electronic administration	13 502 600	38 946 909	52 449 509
Other tax issues	7 769 322	16 814 050	24 583 372
Criminal proceedings initiated by SFS	10 705 458	3 666 304	14 371 762
Natural Monopolies inactivity/delays	0	7 093 563	7 093 563
MinJustice enforcement service	0	2 235 173	2 235 173
State companies investment/ commercial disputes	2 128 801	0	2 128 801
National Police procedural abuse	0	1 587 040	1 587 040
Customs valuation	0	813 141	813 141
Customs – other issues	0	791 344	791 344
Overpaid customs duties refund	0	80 135	80 135
	2 716 373 217	5 958 695 019	8 675 068 235

NON-FINANCIAL IMPACT

	2015	2016	
Malpractice ceased by complainee	7	36	43
Tax records reconciled, tax reporting accepted	3	28	31
Criminal case against the Complainant closed; property/accounts released from under arrest	4	21	25
Legislation amended/enacted; procedure improved	3	14	17
Contract with state body signed/executed	2	13	15
Permit/license/conclusion/registration obtained	10	3	13
State official fired/penalized	1	8	9
Claims and penalties against the Complainant revoked / Sanction lifted	2	2	4
Criminal case initiated against state official/3rd party	2	1	3



Discussions about implementing the office of a business ombudsman in Ukraine began in the fall of 2012. On December 22, 2014, the first ever Business Ombudsman in Ukrainian history became Algirdas Šemeta, a Lithuanian economist and twice Finance Minister, the European Commissioner for Financial Programming and Budget (2009 – 2010) and then for Taxation, Customs, Statistics, Audit and Anti-Fraud (2010 – 2014). 3.9. Complainants' portrait

TOP-5 COMPLAINANTS' INDUSTRIES









Individual Entrepreneur







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OTHER INDUSTRIES INCLUDE:

Retail	11
Auto Dealers	8
Public organizations	7
Warehousing	7
Business services	5
Energy and utilities	5
Financial services	5
Non-state pension provision	5
Farms	4
Health, pharmaceuticals and biotechnology	4
Telecommunications	4
Computer and Electronics	3
Consumer Services	3
Hire, rental and leasing	3
Air Transport	2
Media and Entertainment	2
Oil and gas	2
Repair and Maintenance Services	2
Activities in the field of sport	1
Activity in the field of law	1
Delivery services	1
Restaurant business	1
Engineering, geology and geodesy areas activity	1
Metallurgical production	1
Processing Industry	1
Software and Internet	1
Technical testing and research	1
Transportation and Storage	1
Travel Recreation and Leisure	1

Complaints were coming predominantly from wholesalers, distributors, manufacturers, real estate, agribusiness as well as individual entrepreneurs.

55

SIZE OF BUSINESSES



Small and medium business remains our main source of complaints although we do not make any preferences based on the size or nature of business that submits their complaints to our office.

LOCAL VS FOREIGN COMPLAINANTS



We serve the interests of both local and foreign enterprises although complaints most frequently come from local companies.

As part of its cooperation with the BOC, the State Statistics Service analyzed the complainants – businesses operating on Ukrainian territory who turned to the Council in 2015-2016. The data given below describes 2015.

Altogether, BOC complainants sold goods and services worth nearly UAH 642 billion, which is 12.1% of all goods and services sold in Ukraine in 2015.

The companies who filed complaints with the BOC produced goods and services worth more than UAH 450 billion in 2015, which is 11.3% of all goods and services produced in Ukraine. Of this, 18.3% were goods and services made in the information and telecommunications sector, 16.0% were in manufacturing, and 14.6% were in wholesale and retail trade.

The added value of the goods and services of BOC's complainants was 10% of all added value of goods and services produced in Ukraine in 2015, which is more than UAH 205 billion.



SUMMARY OF KEY MATTERS AND RESULTS



www.boi.org.ua

Subject: Tax inspections

Emarket Ukraine gets tax charge worth over UAH 71mn cancelled

Subject of complaint:

Main Department of State Fiscal Service in Kyiv (MD of SFS Kyiv), State Fiscal Service of Ukraine (SFS)

* Here and further in the Report Complainant has kindly agreed to disclose his/her name for communication purposes

Complaint in brief:

In August 2016, TOV Emarket Ukraine, an advertising business that hosts an online platform called olx.ua on which users can design and display ads, turned to the BOC to help challenge the results of a tax audit carried out by the Kyiv SFS office. The audit resulted in a tax charge against the Complainant worth over UAH 71mn. The Complainant was challenging the charge in line with SFS procedures and asked the BOC to ensure that the complaint would be properly considered by the SFS.

Action taken:

Having researched the matter, the BOC investigator sent a request to the SFS to ensure a comprehensive review of the Complainant's challenge. On September 21, the BOC investigator participated in the hearing of the complaint at the SFS.

Result achieved:

As a result of the BOC's involvement, on October 13, the SFS cancelled the tax charge in full. The case was closed.

Subject: Dilatory VAT refund

SFS refunds VAT in amount over UAH 344 mn. to factory-farm enterprise

Subject of complaint: State Fiscal Service of Ukraine (SFS of Ukraine)

Complaint in brief:

On July 12, 2016, the Complainant, a factory-farm enterprise with foreign investments, lodged a complaint with the BOC regarding VAT non-refund by SFS of Ukraine in amount over UAH 418 mn. for separate periods of 2013-2016.

Action taken:

Having investigated the matter of Complainant, the BOC investigator submitted it to the sessions of BOC and SFS working group on August 9 and 23.

Result achieved:

Following the meetings of working group, Complainant informed the Council that VAT in amount of UAH 344 mn had been repaid to him. On November 3, Complainant notified that the matter doesn't need any further involvement on the part of BOC. The case was closed.

Subject: VAT electronic administration

Pechersk tax office stops demanding that Nielsen Global sign additional e-doc agreement

Subject of complaint:

State Tax Inspection in Pechersk District of Kyiv (Pechersk STI) of State Fiscal Service of Ukraine (SFS)

Subject: Termination of agreement on recognition of electronic reporting

SFS registers tax invoices in electronic form from TOV "INTERA-STROY"

Subject of complaint:

Kremenchuk Joint State Tax Inspection, Poltava Oblast Main Department of State Fiscal Service (Kremenchuk STI)

Complaint in brief:

On June 22, 2016, the Complainant, TOV Nielsen Global, a global marketing research company registered in Kyiv, lodged a complaint with the BOC regarding an unfounded demand from the Pechersk STI that Nielsen Global sign a second agreement, in addition to the existing one, on the recognition of electronic documents.

Action taken:

After examining the case, the BOC investigator sent a request to the SFS and Pechersk STI to look into the actions of Pechersk STI officials, and take the necessary steps to halt their inappropriate demand to conclude a second agreement, in addition to the existing Agreement on the recognition of electronic documents. On October 10, the Complainant received a second letter from STI obliging him to conclude the additional agreement to the agreement. The BOC investigator immediately brought the issue up with Pechersk STI inspector.

Result achieved:

After the BOC investigator's personal intervention, the BOC received a letter that day from the Pechersk STI acknowledging that the previously-concluded agreement on the recognition of electronic documents signed between the Complainant and Pechersk STI was still in force, and no additional agreement was necessary. The case was successfully closed.

Complaint in brief:

On October 19, 2016, the Complainant, a construction company TOV "INTERA-STROY", lodged a complaint with the BOC regarding the unjustified refusal of officials at the Kremenchuk STI to register tax invoices saying that the agreement on recognizing electronic document might be terminated. The Complainant applied to the Kremenchuk STI with a request to clarify the issue, to no avail.

Action taken:

The BOC investigator discussed the complaint with executives of Kremenchuk JSTI and submitted the case for further consideration to the joint working group between the Council and the SFS on December 22.

Result achieved:

Following the meeting of the working group, the Complainant informed the Council that its tax invoices had been successfully registered. The case was closed.

Subject: Criminal proceedings initiated by SFS

SFS Investigations Department in Cherkasy oblast closes criminal case one day before meeting with PM

Subject of complaint:

Investigations Department of Financial Investigations of Main Administration of State Fiscal Service (SFS) in Cherkasy Oblast

Complaint in brief:

The Complainant, a company specializing in domestic transport and forwarding services and rail cargo shipments, requested the BOC's assistance in what it claimed was an unsubstantiated criminal case involving alleged tax evasion. On July 09, 2015, the SFS Department of Financial Investigations in Cherkasy had launched a pre-trial investigation, despite the fact that there were no outstanding tax liabilities.

Action taken:

The BOC requested the SFS of Ukraine to verify the legality of the actions of the investigators handling this case at the Department of Financial Investigations in Cherkasy. In addition, the BOC prepared information about the Complainant's case for the Cabinet of Ministers to review. The BOC investigator presented this case during a meeting with the PM on July 12, 2016, as an example of systemic problems with the baseless initiation or continuation of criminal cases against the Complainant despite court rulings in its favor.

Result achieved:

The SFS Department of Financial Investigations in Cherkasy Oblast closed its criminal investigation the day before the BOC met with the PM. The Complainant expressed gratitude to the BOC as the only institution that had helped to resolve problems affecting its business.

Subject: Termination/ renewal/refusal of VAT payer's registration

United State Tax Inspection of Kharkiv City confirms VAT payer registration

Subject of complaint:

United State Tax Inspection in Kharkiv of Main Department of State Fiscal Service in Kharkiv Oblast (USTI of Kharkiv City)

Complaint in brief:

On June 22, 2016, Complainant, a newly registered local Internetprovider, addressed to the BOC to help challenge refusals by the USTI of Kharkiv City to register Complainant as a VAT taxpayer. The two refusals of USTI were substantiated on the ground that the information about Complainant's location mentioned in the registration application was allegedly incorrect.

Action taken:

After investigating the matter, the BOC investigator contacted the employees of USTI of Kharkiv City and provided phone consultation on the matter, including recommendation to verify the reasons of refusals in registration of Complainant as VAT payer.

Result achieved:

Due to the BOC involvement the Complainant was registered as a VAT payer. The case was closed successfully.

Subject: other tax issues

SFS acknowledges supplier's excisable fuel stock

Subject of complaint:

Main Department of the State Fiscal Service in the City of Kyiv (MD of SFS)

Complaint in brief:

On July 13, 2016, the Complainant, a Ukrainian supplier of gas and oil products, lodged a complaint with the BOC regarding the failure of the MD of SFS in Kyiv to acknowledge the volume of fuel for which the Complainant was entitled to register excise invoices and calculations of adjustments in the fuel sale electronic administration system.

The Complainant had received a certificate from tax authorities confirming the inventory of fuel stock, but was unable to register excise invoices for this amount.

Action taken:

On July 29, the BOC contacted the SFS with a request to take all necessary measures to acknowledge the volume of fuel. The SFS wrote back on September 2 saying that the SFS was working on it, and on September 12 confirmed that the issue is resolved.

Result achieved:

The Complainant informed the BOC that the problem had been successfully resolved and the case was closed.

ACTIONS OF STATE REGULATORS





Advocating for business with the government

Subject: StateGeoCadastre

Farm firms "Dary Laniv" and "Hermes" receive approvals for land allocation after numerous refusals

Subject of complaint:

State Geodesy, Cartography and Cadastre Service of Ukraine (GeoCadastre) in Kyiv Oblast

Complaint in brief:

On June 1, 2016, two Complainants, small farming enterprises "Dary Laniv" and "Hermes", registered in Kyiv Oblast, asked the BOC to help challenge numerous groundless refusals by GeoCadastre in Kyiv Oblast to grant approval to draw up documentation to allocate a land parcel for private ownership for agricultural use. These refusals took place between August 2015 and April 2016.

Action taken:

On June 10, the Council turned to the Main Office of GeoCadastre with a request to settle the issue of granting approval. The BOC also requested that GeoCadastre conduct an official investigation of the case.

Result achieved:

On July 19, the Council was informed by GeoCadastre's Main Office that the problem with granting approval was successfully resolved without an official investigation. The Complainants' problems were completely resolved and the case was successfully closed.

Subject: DABI

State Architectural and Construction Inspection removes delays in registering declaration of start of construction works

Subject of complaint: State Architectural and Construction Inspection, Kyiv Oblast (SACI)

Complaint in brief:

The Complainant, a company specialized in producing of cardboard and packing materials, turned to the BOC with regard to delay in registering its declaration of the start of construction works necessary to reconstruct the Complainant's production facility. On January 20, 2016, the Complainant had submitted this declaration to SACI in Kyiv Oblast to be registered. Within 10 days, however, SACI rejected the declaration, due to the alleged non-compliance of the type of construction to the exhaustive list of works provided by effective legislation. Over January-May 2016, SACI refused to register the Complainant's declaration five times, each time making new demands to the Complainant's declaration. The last rejection from SACI was because of alleged non-compliance of the declared category of complexity of construction that obliged Complainant to apply for the building permit.

Action taken:

In the beginning of June 2016, the BOC applied to SACI with request to explain reasons for delay in registration of declaration. On June 16, the BOC experts initiated a meeting with the director of SACI of Ukraine, in the course of which they discussed the issue of systematic delays in issuing permitting documents for construction. The specific case of this Complainant was brought up as an example of delays in registering declarations. Shortly after this meeting, SACI in Kyiv Oblast informed about readiness to have constructive dialogue with Complainant and to solve his issue substantially.

Result achieved:

As a result of established cooperation with SACI in Kyiv Oblast, on June 20, the Complainant submitted his declaration again, and SACI registered it within three days. The category of the complexity of construction wasn't changed.

The BOC included the mentioned case in the Systemic Report "Reducing the risk of corruption and attracting investment to the construction industry" presented on July 28, 2016.

Subject: Antimonopoly Committee of Ukraine (AMCU) actions

Internet provider gains right to pay reasonable rates to place its telecommunication networks on existing power poles

Subject of complaint:

Poltava Territorial Department of the Antimonopoly Committee of Ukraine (AMC)

Complaint in brief:

On August 29, 2016, Fobos Information Technologies Implementation Center LLC, representing a group of small and medium internet providers who use the services of the power utility's existing transmission poles to install their own telecommunication networks (TCN), addressed a complaint to the BOC about possible abuse of monopoly position by PAT Poltavaoblenergo, the local power utility. The Complainant accused Poltavaoblenergo of charging overly high rates for services for the use of slots on its network for the installation of TCN, and that the local AMC office, the Poltava Territorial Department, had not taken any action to investigate the allegations, despite repeated requests from the Complainant.

Action taken:

The BOC investigator requested that the AMC's Territorial Department provide an explanation for its failure to respond to the Complainant's appeals. A case regarding violations of the law on commercial competition was opened, and confirmed that PAT Poltavaoblenergo was in violation. The AMC's Territorial Department recommended Poltavaoblenergo recalculate the cost of its services on a commercially justified basis.

Result achieved:

As a result of the BOC's intervention, the Complainant's rights under the law on commercial competition were restored and its right to commercially-justified rates for placing its TCN on existing poles recognized. The case was closed successfully.

Subject: Other state regulators' actions

MEDT lifted sanctions against Ukrainian subsidiary of Italian manufacturer

Subject of complaint:

Ministry of Economic Development and Trade of Ukraine (MEDT)

Complaint in brief:

On 14 March 2016 the BOC received complaint from TOV "Tecnocap UA", registered in Lviv Oblast, a part of Italian Group of Companies producing and servicing metal closures and capping machines, regarding sanctions imposed on him by the MEDT.

The sanctions were imposed starting from 2013 due to the Complainant's inability to collect outstanding payments from its Russian counterparty. In the years 2013 and 2014 Lviv Oblast Commercial Court and Arbitration Court in Moscow ruled in favour of the Complainant in its lawsuits lodged against one of its customers – Russian counterparty, which fell behind with the payments for the purchased goods. However, the enforcement of the court rulings were largely ineffective.

Action taken:

In May 2016 the BOC requested a meeting with the Director of the Department for Regulation for the Foreign Economic Activities of the MEDT on the merits of the complaint, which was held on 7 June 2016 with the BOC's Deputy Business Ombudsman and BOC's investigator participating. During that meeting the representatives of the MEDT reported their readiness to approve lifting of the sanctions after provision of documents evidencing that all measures undertaken to collect outstanding indebtedness were exhausted.

Result achieved:

On 14 July 2016 the Complainant informed the BOC that enforcement procedure against its counterparty in the Russian Federation had been terminated and the sanctions had been suspended until 01 October 2016.

On 18 August 2016 the BOC was informed that the aforementioned sanction was lifted by the MEDT whereby the BOC's recommendation had been fulfilled. Thus the problem was successfully resolved.

DEFICIENCIES IN REGULATORY FRAMEWORK



Deficiencies in regulatory framework - local councils/municipalities



1

Deficiencies in regulatory framework – other issues



Subject: Deficiencies in regulatory framework – tax

Volyn berry-processing companies are no longer subject to inventorying

Subject of complaint:

Volyn Oblast State Administration (Volyn OSA), Volyn Oblast Administration of State Fiscal Service (SFS)

Complaint in brief:

The Complainants, two companies specializing in wholesale berry-processing, addressed the BOC regarding the Decree issued by the Volyn Governor that had led to systematic inventory inspections of the companies' refrigeration equipment and premises since 2010.

Action taken:

On June 15, 2016, the BOC sent a query to the Volyn OSA with a request to provide the documents related to the complaint. In July, the BOC also sent queries to the Lviv, Rivne and Ivano-Frankivsk Oblast SFS offices in order to do a comparative analysis of control measures related to berry production in these oblasts. Our analysis showed that businesses in Volyn Oblast faced excessive pressure and suffered from inventory audits. No other oblast has such a strict approach to overseeing berry-processing enterprises.

On August 5, the BOC investigator met with the First Deputy Governor of Volyn and other local officials, during the course of which he recommended that the oblast stop its inventorying of company premises because such actions required a court order.

Result achieved:

On August 25, the Volyn OSA informed the BOC that the Council's recommendations were implemented and such inspections were stopped. In addition to this, the Volyn OSA adopted the necessary amendments to its local regulations to bring them in line with the law, as the BOC had advised. The case was successfully closed. Subject: Deficiencies in regulatory framework – other issues

Verkhovna Rada cancels fees for changing addresses in statutory documents

Subject of complaint: Verkhovna Rada (VR)

Complaint in brief:

On October 12, 2016, enterprise "Kodymsky District Consumer Society", registered in Odesa Oblast, turned to the BOC regarding the fee for state registration of changes to a legal address in a company's statutory documents because of a change in the name of the street where the Complainant is registered. The street name was changed to comply with to the Law "On the condemnation of the communist and national socialist (Nazi) regimes in Ukraine, and a ban of promulgating their symbols" dated April 09, 2015 (the decommunization law).

Action taken:

Having reviewed the case, the BOC investigator determined that after the adoption of the decommunization law, the fee for state registration of changes to legal address in statutory documents was not being charged. However, after the Law "On amending the Law 'On state registration of legal entities and individual entrepreneurs and community groups' entities were being charged the registration fee as of January 01, 2016. In addition, the investigator found out that the Verkhovna Rada had registered a bill to eliminate this fee. In view of this, the Council appealed to the Ministry of Justice and VR with letters in support of the bill.

Result achieved:

On December 02, the Ministry of Justice informed the BOC that, as of November 02, 2016, the fee for registering changes to a legal address in statutory documents, including in connection with the decommunization law, had been dropped. The Complainant's problem was solved.



In the two years that it has been operating in Ukraine, the Business Ombudsman Council has helped businesses recover more than UAH 8.7 billion.

CUSTOMS ISSUES67% closed successfully
11% closed with recommendations
discontinuedCases closed
with result27
closed
casesCases closed with
recommendations27
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Closed
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Subject: Customs valuation

PAKINVEST GRUP gets back the overpaid customs clearance fees

Subject of complaint: Kyiv Municipal Customs

Subject: Customs clearance delay/refusal

Dnipropetrovsk Customs stops delaying customs clearance of wholesaler's goods

Subject of complaint:

Dnipropetrovsk Customs (Dnipropetrovsk Customs), State Fiscal Service (SFS)

Complaint in brief:

On July 8, 2016, the Complainant, private company Pakinvest Group, which acts as a broker for a wide variety of goods, lodged a complaint with the BOC regarding return of the overpaid customs clearance fees worth UAH 224,000. Prior to that the Complainant had successfully challenged decision on adjustment of customs value of goods by Kyiv Municipal Customs in the courts of all levels of authority. However, the court rulings were not being honored by Kyiv Municipal Customs.

Action taken:

The BOC addressed the Head of Kyiv Municipal Customs with a recommendation to consider request of the Complainant about return of overpaid customs fees and to take all necessary measures to execute the court's decision. After issuing recommendations, the Council discussed the matter with responsible officials of Kyiv Municipal Customs.

Result achieved:

Shortly after, Kyiv Municipal Customs informed the BOC that conclusions regarding return of the overpaid customs fees resulted from an adjustment of the customs value of goods had been handed over to the corresponding department of State Treasury. On October 6, the BOC was informed by the Complainant that all the overpaid customs fees had been returned. The case was successfully closed.

Complaint in brief:

On November 7, 2016, the Complainant, a wholesaler registered in Dnipro, lodged a complaint with the BOC regarding unexplained delays with customs clearance of its goods. Customs officials said the delays were due to additional checks requested by the State Security Service of Ukraine.

Action taken:

The BOC investigator addressed Dnipropetrovsk Customs with a request to settle the Complainant's issue and to stop delaying the customs clearance of its goods.

Result achieved:

On December 2, the Complainant informed the Council that customs cleared its goods. The case was closed less than in a month.
Subject: Overpaid customs duties refund

Kyiv City Customs returns overpaid duty and VAT to plastics manufacturer

Subject of complaint:

Kyiv Municipal Customs, State Fiscal Service (Kyiv Customs)

Complaint in brief:

In July 2016, the Complainant, a manufacturer of plastic products, lodged complaint with the BOC regarding the failure of Kyiv Customs to comply with a Resolution of the District Administrative Court of Kyiv and to reimburse excess customs duty and VAT paid by the company.

Action taken:

The BOC investigator submitted the Complainant's case for consideration to the expert group at the State Fiscal Service. In addition, the case was sent for consideration to the Cabinet of Ministers as a problematic issue.

In August 2016, the BOC investigator presented Kyiv Customs and the SFS with recommendations how to properly comply with the District Administrative Court's ruling.

Result achieved:

Following the BOC's involvement, the Complainant informed the Council that the court decision had been carried out and the company had received the overpaid taxes on its account. The case was closed.

Subject: Customs – other issues

Persistence pays: UAH 2,665 returned after three years of court hearings

Subject of complaint:

Mykolayiv Municipal Customs under the State Fiscal Service

Complaint in brief:

In August 2016, the Complainant, a distributor of car parts and lubricants registered in Mykolayiv Oblast, lodged a complaint with the BOC regarding the failure by Mykolaviv Municipal Customs to return overpaid customs duty for nearly three years. The overpaid amount, which had resulted from an adjustment to the customs value of an imported spare part in 2013, was only UAH 2,665.83, but its return became the subject of six court hearings. Initially, the Mykolayiv Circuit Administrative Court overturned the decision of the Mykolaviv Customs Office to declare the spare part illegal. But the Mykolayiv Customs Office tried to challenge this ruling in an appeals court and the Higher Administrative Court, without success. Still, the Customs Office refused to return the difference in the customs duty, so that, at the end of 2014, the Complainant turned to the courts again and once again went through the three courts. The Higher Administrative Court left the original decision of the Mykolayiv Circuit Administrative Court unchanged, requiring the Mykolayiv Customs Office to return the difference to the Complainant. Again, the Customs Office refused to do so. At this point, the Complainant appealed to the BOC for help.

Action taken:

The BOC investigator discussed the enforcement of the court order in the Complainant's case with officials at the Mykolayiv Customs Office, and submitted the case to the BOC–SFS working group on customs issues. This took place in October.

Result achieved:

As a result of the BOC investigator's intervention, the Complainant informed the BOC on November 23, that it had received the overpaid customs duty in full, including for other instances not related to this particular complaint. The case was closed.

LOCAL COUNCILS/MUNICIPALITIES ISSUES





Advocating for business with the government

Subject: Allocation of land plots

Regional State Administration extends land lease agreement with kaolin processing co.

Subject of Complaint:

Administrator, Volnovakha Regional State Administration

Complaint in Brief:

The Complainant, a company specializing in extracting and processing natural resources, filed a complaint about an unsubstantiated refusal to prolong a leasing agreement on a parcel of land required for the Complainant's business operations. The Complainant originally concluded a Land Lease Agreement with the Regional State Administration on September 07, 2005, to start extracting kaolin. The Agreement was concluded for a period of 10 years. On July 22, 2015, the Complainant addressed the Donetsk Military-Civil Administration (DMCA) with a request to prolong the term of the Land Lease Agreement, which was to expire on September 18, 2015. However, the DMCA refused to extend the lease, saying that the Complainant's commercial activity was not in the interests of the community. The DMCA claimed that the vehicles the Complainant was using to transport the extracted kaolin was seriously damaging Volnovakha's roads.

Action taken:

Over October-November 2015, the BOC had several telephone conversations with the Volnovakha Regional State Administrator to get an update on the case and gather additional facts.

Result achieved:

On February 22, 2016, the Complainant informed the Council that the issue was finally resolved. An extension to the Land Lease Agreement was signed by the Volnovakha Regional State Administrator and submitted for the Complainant's signature. The case was closed. Subject: Local councils/ municipalities – rules and permits

City Council partly satisfies construction permit request

Subject of complaint:

Truskavets Mayor and City Council in Lviv Oblast

Complaint in brief:

The Complainant, a small construction company in Truskavets, addressed the BOC after the City Council and Mayor of Truskavets refused to approve plans for the construction of a 6-floor building. Although the company had submitted the necessary packet of documents, the Council would only approve construction of a 4-floor building. The Complainant decided to turn to the BOC for help resolving the problem.

Action taken:

The BOC discussed the issue with the Chief Architect of Truskavets. The BOC investigator also sent a letter to the Mayor, asking to resolve the Complainant's issue. The Council approved the construction documents at a second vote on June 16, but it did not specify the exact number of floors.

Result achieved:

A few weeks later, the Complainant informed the BOC that Truskavets City Council had partly satisfied his request and approved 5 floors to be constructed. Since Complainant did not respond affirmatively to a BOC enquiry as to whether he intended to challenge this decision in court, the BOC closed the case as resolved with a partial success.

Subject:

Local councils/ municipalities – investment disputes

Heating company is given free access to property

Subject of complaint: Village Council in Zhytomyr Oblast

Complaint in brief:

In November 2016, the Complainant, a heat generation and supply company registered in Zhytomyr Oblast, lodged a complaint with the BOC to challenge obstacles set up by the chair of the local village council in Zhytomyr Oblast regarding the Complainant's free access to his property, solid-fuel boilers located on the premises of the local school. The Complainant wanted to dismantle his equipment after the village council refused to renew an agreement to rent the furnaces.

Action taken:

Over November-December, the BOC investigator had several phone conversations with the village council chair and reached an agreement to guarantee the Complainant free access to his property.

On November 28, the BOC investigator sent a written request to the chair about the council's unscrupulous actions.

Due to the BOC's involvement, on December 26, the village council chair and the Complainant called to confirm that an agreement had been reached to guarantee the Complainant unobstructed access to its property. The case was closed successfully.

Subject: Local councils/ municipalities – other issues

Grain grower overcomes inaction of county state administration

Subject of complaint: Radomyshl County State Administration (Radomyshl CSA)

Complaint in brief:

The Complainant, a grain grower registered in Zhytomyr Oblast, turned to the BOC with a complaint against the failure of the Radomyshl CSA to set up a special Commission to establish and compensate damage to landowners and users caused by the illegal occupation of the Complainant's territory by another enterprise. Starting in December 2015, the Complainant repeatedly submitted applications demanding that the Radomyshl CSA form a Commission and convene to consider compensation of those damages. Although the members of Commission were established, it did not convene to consider the Complainant's case. The Commission explained its delay as due to the need for the State Regulatory Service to confirm and approve a draft Regulation on determining and compensating damages. With the BOC's assistance, it was established that there was no need to approve such type of documents and that there was in fact no reason for the Commission not to convene.

Action taken:

Upon investigation, the BOC recommended that the Radomyshl CSA Commission consider the Complainant's application and formalize its ruling.

Result achieved:

The Radomyshl CSA followed the BOC's recommendation. The Commission met and the case was closed.





Business Ombudsman's main purpose is to defend business interests with government agencies, local municipalities and other state bodies. This office is an instrument for resolving conflicts and disputes between government and business and to mediate between the state and the business community. Similar institutions are found today in countries like the US, Russia and Georgia.

Advocating for business with the government

Subject: MinJustice enforcement service

State Enforcement Service commences enforcement proceeding in the interests of two construction companies

Subject of complaint:

State Enforcement Service of Shevchenkivsky District Department of Justice in Kyiv City (Shevchenkivska SES)

Complaint in brief:

On April 22, 2016, the Complainants, members of international construction consortium, turned to the BOC referring to the failure of Shevchenkivska SES to provide Complainants with the Resolution about commencement of enforcement proceeding following the Decision of the Commercial Court of Kyiv dated November 09, 2015. Enforcement proceeding was pivotal for collection of debt from Complainants' counterparty. Two attempts by the Complainants to resolve this issue with Shevchenkivska SES were unsuccessful.

Action taken:

On April 25, the BOC investigator addressed Shevchenkivska SES with the request to provide Complainants with the Resolution about commencement of enforcement proceeding.

Result achieved:

On May 10, the Complainants informed the Council that they received the Resolution from Shevchenkivska SES. The Complainants also informed that due to the Council's intervention they effectively received a debt from counterparty. The case was closed.

Subject:

Minjustice registration service

Ministry of Justice withdraws illegal changes to statutory documents by Pechersk district state administration

Subject of complaint:

Pechersk District State Administration in Kyiv (Pechersk DSA), Ministry of Justice

Complaint in brief:

On October 12, 2016, the Complainant, a power engineering and industrial construction firm, lodged a complaint with the BOC regarding the actions of state registrars at the Pechersk DSA, who had registered changes in the Complainant's statutory documents and organizational structure based on falsified documents.

Action taken:

The BOC investigator sent a request to the Ministry of Justice to immediately call a Commission to consider a complaint regarding state registration in order to review the Complainant's charges. The Commission met on October 18.

Result achieved:

Next day after the meeting, the Complainant informed the Council that the changes in the firm's statutory documents had been withdrawn. The case was closed

NATIONAL POLICE ISSUES





Advocating for business with the government

Subject: National Police Procedural abuse

Waste management company regains access to property after wrongful police arrest

Subject of complaint:

Vasylkivskyi Police Department (Vasylkivkyi PD) in Kyiv Oblast

Complaint in brief:

On August 25, 2016, the Complainant, a waste management company, addressed the BOC after the Vasylkivkyi Police Department sealed premises that the Complainant had leased to store its equipment. The Complainant reported that police inspector had been granted a court order to search the landlord's property because of some crime that had been allegedly committed there. But the investigating judge had not authorized the investigating officer to seal the Complainant's premises or seize the Complainant's property.

Action taken:

The BOC investigator looked into the matter and concluded that the police inspector had failed to comply with the provisions of procedural legislation. The BOC investigator sent a request to the Vasylkivkyi PD to review the circumstances of the seizure of the Complainant's property and, if this seizure was without basis, to take steps to return the property to the Complainant. The BOC investigator also sent this case to the National Police expert group for review.

Result achieved:

On October 20, the Complainant informed the Council that the problem had been solved and access to the sealed property had been restored. The case was closed.

Subject: National Police inactivity

Police Department renews investigation into company squatting another company's land

Subject of complaint:

Bobrovtsi Police Department in Chernihiv Oblast (Bobrovytske PD)

Complaint in brief:

On September 5, 2016, the Complainant, a livestock-breeding and grain-growing company, lodged a complaint with the BOC regarding the delay of a criminal investigation by the Bobrovtsi PD in a case where another enterprise was illegally occupying land belonging to the Complainant and had even built a fence to prevent the Complainant from entering its own land. In February 2016, the Bobrovtsi County Court had demanded that obliged the Bobrovtsi PD investigator look into the Complainant's request to open a criminal case, but no investigative action had been taken for more than six months.

Action taken:

The BOC investigator sent a request to the Bobrovtsi PD investigator who was not properly investigating the complaint, to stop acting improperly during the investigation. The PD also asked the Prosecutor's Office to provide the investigator with written instructions regarding the proper approach to investigating the Complainant's case. The investigator failed to follow the instructions and was subjected to disciplinary action, while the investigation was assigned to a more experienced investigator in the Bobrovtsi PD. The necessary measures were taken with respect to the Bobrovtsi PD Chief of the Investigative Department. The BOC investigator also discussed the progress of the Complainant's case at an expert group with the National Police.

Result achieved:

As a result of the BOC intervention, the Complainant's investigation was renewed and progress of preliminary investigation was being monitored by the National Police. The case was closed. Subject: National Police Criminal case initiated

Prosecutor's Office in Ivano-Frankivsk Oblast prods two dilatory police investigations

Subject of complaint:

National Police in Ivano-Frankivsk Oblast

Complaint in brief:

In July 2016, a private entrepreneur (SPD) filed a complaint with the BOC regarding the ineffectiveness of Police in Ivano-Frankivsk Oblast during the pre-trial investigation of the illegal occupation of the Complainant's commercial premises by other private entrepreneurs, used for commercial activity, by other SPDs. Moreover, these individuals had stolen some children's beds that were on the premises. The Police failed to take all necessary steps to carry out a proper pre-trial investigation.

The Complainant also noted that a criminal case that he regarded as baseless had been launched against him by the Police to put pressure on his business. This investigation was also being delayed by the Police investigator.

Action taken:

After looking into the case, the BOC investigator was able to confirm that the pre-trial investigations were, indeed, being delayed. The BOC investigator then sent requests to the Prosecutor's Office and the Ivano-Frankivsk Oblast Police, asking that they take the necessary steps to speed up the investigations. The Prosecutor's Office informed the Council that in both cases the investigators in charge had been provided with detailed instructions for running their investigations, which they were then acting upon. The Police responded that the investigator in charge had sent a request to the police of Lviv, and Terebovlya, Ternopil Oblast, to provide copies of the documents of the proceedings initiated on the trafficking of beds stolen from the Complainant's premises. Also, the BOC investigator discussed progress of both investigations at the expert group of the National Police.

Result achieved:

After the BOC's intervention, the pre-trial investigations of both of the Complainant's cases were renewed. For the Complainant the necessary result was achieved and the case was closed.



State Security Service other



Subject: State Security Service – Procedural abuse

SBU in Rivne Oblast stops hostile campaign against TOV Oldi

Subject of complaint:

Security Bureau of Ukraine (SBU), the Main SBU Department for Combating Organized Crime and Corruption in Rivne Oblast

Complaint in brief:

On November 25, 2016, the Complainant, a small foreign wood processing factory TOV Oldi, operating in Rivne Oblast, addressed the BOC to help challenge procedural abuses on the part of the SBU office in Rivne Oblast. The actions included request from the SBU office to the firm's employees to appear at the SBU office, psychological pressure and SBU visits to the homes of employees.

Action taken:

On November 30, the BOC investigator sent requests to the Prosecutor General's Office and to the SBU asking to look into the actions of SBU in Rivne Oblast. The PGO and SBU responded that an official check had shown no procedural abuses. On December 20, the BOC investigator brought up the case during a meeting between top SBU and BOC officials.

Result achieved:

On December 30, the Complainant informed the Council that the abuse by the local SBU office had stopped and that for a month there had been no problems with law enforcement agencies. The BOC closed the case.

Advocating for business with the government

Subject:

State Security Service – Criminal case initiated

SBU closes criminal case and returns property to agro-chemical importer TOV Avgust-Ukraine

Subject of complaint:

Security Bureau of Ukraine in Kyiv and Kyiv Oblast (Kyiv and Oblast SBU)

Complaint in brief:

On May 13, 2016, the Complainant, importer and wholesale distributor of agro chemicals TOV Avgust-Ukraine, lodged a complaint to the BOC regarding what it claimed was an unlawful criminal case, filed against it by the Kyiv SBU office. The case had been launched under Art. 321 of the Criminal Code of Ukraine: the illegal production and distribution of chemicals and powerful precursors. It resulted in a court ruling to seize over 350 t of agro chemicals for expert assessment. The assessments were conducted in September 2016, but the Kyiv SBU refused to pay for them. Meanwhile, the Prosecutor General's Office turned the criminal case over to the National Police of Ukraine for further investigation.

Action taken:

On May 23, the BOC investigator sent requests to the Kyiv and Oblast SBU and Prosecutor General's Office to verify the legality of the seizure of the Complainant's chemicals and grounds for this measure. The responses from the Kyiv SBU and Prosecutor's Office noted that an official investigation into the unlawful actions of the Kyiv and Oblast SBU had been delegated to the Kyiv and Oblast SBU. After some further ineffective correspondence with the Kyiv and Oblast SBU, the BOC investigator raised the Complainant's case at a meeting with SBU officials in June and during an Expert Group meeting at the office of the National Police in October.

Result achieved:

As a result of the BOC investigator's actions, the Complainant reported in November that the criminal case against the company had been closed and the chemicals were returned.

Subject: State Security Service – other issues

TOV Matimex-Ukraine's foreign economic activity wasn't stopped

Subject of complaint:

Security Bureau of Ukraine (SBU), Ministry of Economic Development and Trade (MEDT)

Complaint in brief:

On September 20, 2016, the Complainant, a wholesaler TOV Matimex-Ukraine, specialized on import of aromatic mixes for sausage products, located in Kyiv, addressed the BOC to help challenge an unjustified the pre-trial investigation undertaken by the SBU and an MEDT decision to institute a special sanction against the company by temporarily suspending its foreign economic activities.

Action taken:

In September, the BOC had a working meeting with the Prosecutor General's Office (PGO) at which the Complainant's case was discussed in detail. As a result of the meeting on September 28, the BOC investigator requested that the PGO verify the legality of the actions of the investigators carrying out the pre-trial investigation. On September 23 and November 23, the BOC investigator also sent requests to MEDT to undertake a thorough, impartial review of the Complainant's request to withdraw the temporary suspension of its foreign economic activity.

During the investigation, the BOC investigator closely cooperated with the Complainant, the PGO, SBU, MEDT, Ministry of Finance, and the Austrian Ambassador to Ukraine and Ukrainian Ambassador to Austria.

Result achieved:

On November 15, the Prosecutor's Office of Kyiv Oblast informed the Council that the criminal proceeding had been dropped for lack of evidence of a crime. On December 29, MEDT withdrew the temporary suspension of foreign economic activity. The case was successfully closed. As a result of the BOC intervention, Complainant saved more than one hundred of work places.

PROSECUTOR'S OFFICE ISSUES





Subject: PO – Procedural abuse

PO returns lumber seized from woodprocessing company

Subject of complaint: Prosecutor's Office in

Volyn Oblast

Complaint in brief:

In November 2016, the Complainant, a wood-processing company, asked the BOC to help challenge the unprofessional behavior of Volyn Oblast prosecutors.

Specifically, the Complainant claimed that, in the course of an investigation, the Volyn Prosecutor's Office had carried out a search and confiscated the Complainant's lumber. The investigating judge had ruled that the property should be returned to the Complainant, but the Volyn Prosecutor's Office failed to comply with the ruling.

Actions taken:

In November, the BOC investigator addressed the Prosecutor General's Office with a recommendation to verify the legality of the Volyn Prosecutor's Office's actions in failing to return the property seized during a search as part of a criminal case.

The BOC investigator also forwarded the case for discussion to the BOC-PGO working group as an example of kinds of procedural abuses that went on during criminal investigations against business.

Result achieved:

Due to the BOC intervention, the Volyn Prosecutor's Office returned the Complainant's lumber. The case was closed successfully.

Subject: PO – inactivity

Prosecutor's Office activated case regarding return of property to private entrepreneurs

Subject of complaint:

Prosecutor's Office #1 in Dnipro (PO#1)

Complaint in brief:

In July 2016, the Complainants, a group of private entrepreneurs registered in Dnipro, lodged a complaint with the BOC regarding the failure of officials at the PO#1 in Dnipro to return the Complainants' property, which had been seized in the course of investigative actions by police officers during a pre-trial criminal investigation. The Complainants' attorney had appealed against the seizure to the Industrialniy District Court of Dnipro. In May 2016, the Industrialniy District Court had issued four rulings that voided the property seizure, but the enforcement of the ruling kept being delayed.

Action taken:

Having studied the matter, the BOC investigator addressed the Dnipropetrovsk Oblast Prosecutor's Office with a recommendation to return the seized property to the Complainants based on the investigative judge's rulings. The BOC investigator also brought up the case at meetings of expert groups involving the Prosecutor General's Office and the BOC on September 23 and November 2.

Result achieved:

As a result of BOC intervention, the Prosecutor's Office of Dnipropetrovsk Oblast informed the BOC that some of the seized property had been successfully returned to the Complainants. The grounds for returning the rest of the property were being considered by an authorized court. Given the results so far and that fact that, according procedure, it could not continue investigating a case that was being heard in court, the BOC closed the case. Subject: PO – criminal case initiated

KPO dismisses criminal case against pharmaceutical firm

Subject of complaint:

Main Department of Security Bureau of Ukraine, Kyiv Prosecutor's Office

Complaint in brief:

In June 2015, the BOC received a complaint from Ukrainian Division of an international pharmaceutical company represented in more than 70 countries of the world, against actions by the Security Bureau of Ukraine (SBU)'s Main Department and the Kyiv Prosecutor's office (KPO). The two agencies had filed a criminal suit against the Complainant's local officials for allegedly illegal registering the company's bioactive supplement as a drug in order to reduce their taxes.

In addition, state investigators searched the premises of a subcontractor with whom the Complainant had a packaging agreement and seized certain documents and samples. Prior to turning to the BOC, the Complainant sent public appeals to several state agencies, requesting a review of the questionable actions of the investigators.

Action taken:

During a detailed examination of the case materials, the BOC investigator determined that the supplement was already registered in then Ukrainian Soviet Socialist Republic as a prescription drug in the late 1980s, and that this registration had regularly been extended since the late 1990s. The supplement is also a registered drug in its country of origin.

This indicated that investigative bodies probably exceeded their authority by incorrectly evaluating the substance as a "bioactive supplement" instead of a drug.

On September 2, 2015, the BOC sent a letter to the Investigation Department of the Main Department of Ministry of Internal Affairs in Kyiv, requesting that the facts of the case provided by the Complainant be reviewed.

The BOC investigator kept track of the case and during a November 2015 hearing on the case, the KPO designated a comprehensive expert panel chemical review of the substance. This was postponed several times for lack of an appropriate expert.

Finally, in April 2016, the BOC was forced to request that the KPO adhere to the proper timeframe for an expert evaluation.

Result achieved:

Finally, on June 17, 2016 the Kyiv Prosecutor's office closed the criminal case due to absence of criminal offence.

Subject: PO – other issues

PGO reopens case in favor of Complainant's interests

Subject of complaint:

Prosecutor General's Office (PG), Military Prosecutor's Office (MPO), Military Prosecutor's Office of Central Region of the Kyiv Garrison (MPCR)

Complaint in brief:

In July 2016, an NGO representing the Complainant lodged a complaint with the BOC regarding ineffective actions by the MPO in criminal case.

The Complainant, a manufacturing firm, holds shares in a company in which a 51% stake of belongs to a state enterprise. The Complainant suspected that this company's management had embezzled funds, and turned to the state enterprise with the controlling stake with a request to investigate the commercial activity of the jointly-owned firm. The audit identified no violations, but the Complainant disagreed with results of the audit and so addressed the MPO.

After the Complainant's first request in May 2015, the MPO launched a criminal case and closed it in November 2015 without results. After a second request in January 2016, the MPO assigned the case to the MPCR of the Kyiv Garrison and told the Complainant that they would be notified of the results of the investigation

Action taken:

The BOC issued several requests to the MPCR of the Kyiv Garrison, the MPCR and the PGO with recommendation to consider the resuming the criminal investigation that had been closed in November 2015. The MPCR confirmed the circumstances specified by the Complaint and looked into how the original criminal case had been investigated.

Result achieved:

As a result of the BOC's intervention, on July 25, 2016, the MPCR informed the Council that it had cancelled the resolution on closing of the criminal investigation. After this, the Solomianskiy District police department began a pre-trial investigation into the case. Given this successful result, the BOC decided to close the case.

STATE COMPANIES ISSUES





Subject: Other actions

Results of a tender for mobile number portability are overturned

Subject of Complaint:

The Ukrainian State Center for Radio Frequencies, a state enterprise

Complaint in Brief:

The Complainant, SI Center LLC, addressed the BOC on February 9 to challenge a number of omissions that took place during a tender to implement portability of cellular numbers. The Complainant reported that its bid was almost half the price of the winning bid, yet the company's bid was rejected. Prior to addressing the BOC, the Complainant lodged an appeal challenging the outcome of the tender with the Antimonopoly Committee of Ukraine (AMC).

Action taken:

The BOC looked over the evidence and came to conclusion that the Complainant's proposal was possibly discarded improperly. Given that the AMC was the primary body whom the Complainant addressed with the problem, the BOC recommended that the AMC hold an impartial, comprehensive hearing of the complaint. The AMC heard the complaint in two sessions during March. The BOC attended both of those hearings and reports that they were conducted in compliance with the Council's recommendations.

Result achieved:

On March 18, 2016, the AMC revoked the results of the tender to introduce mobile number portability in Ukraine and the case was closed.

Advocating for business with the government



SYSTEMIC ISSUES AND RECOMMENDATIONS

During this past year, the Business Ombudsman Council ran across a series of problems of a systemic nature that constitute risks for Ukraine's business climate as it reviewed the complaints that came across its desk. The Council presented its recommendations for eliminating these problems to the Government, both in thematic systemic reports and during the course of its investigations of specific complaints.

5.1. Systemic issues identified in the reporting period (Clause 5.3.1 (h) of Rules of Procedure)

In the course of 2016, the BOC observed some shift in complaint trends, although the key problem areas remain unchanged.

Unquestionably, the main source of problems with Ukraine's business climate lies in tax administration. corruption at all levels of management in the **tax** administration system, and criminal cases brought against businesses by fiscal agencies. The volume of complaints regarding tax issues grew by 13 percentage points compared to 2015 and constituted 49% of all received gueries in 2016 vs. 36% in 2015. The issue of electronic reporting was extremely acute for entrepreneurs in 2016.

The BOC's team is working on the most pressing tax issues every day as part of its Memorandum of Cooperation with the State Fiscal Service signed in the previous year as well as on implementing recommendations provided in a systemic report called "Problems with administering business taxes in Ukraine" published in October 2015.

> The positive trend, though, is the professional and consistent dialogue with the State Fiscal Service and Ministry of Justice, which has been leading to fair decisions in favour of complainants who have turned to the Business Ombudsman Council.

Another painful problem for business is the **abuse of power on the part of law enforcement agencies**,

which are known to pressure businesses. At the beginning of 2016, the Council publicized a systemic report with a call for a fundamental change in the approach to launching and carrying out criminal proceedings and for amendments to Ukraine's Criminal and Criminal Procedural Codes. In Quarter III 2016, the first official meeting of the Business Ombudsman with the General Prosecutor Yuriy Lutsenko took place where we aligned the vectors of cooperation and agreed to jointly tackle the complaints the BOC receives regarding actions of law enforcement agencies.

The challenges that businesses face with **local government agencies** also remain largely unresolved. The range of questionable decisions made by these agencies includes issues revolving around land and the regulation of SMEs in the regions. Thus, the BOC prepared the systemic report "Challenges for government and business in dealing with local government", which was presented in February 2017.

The Business Ombudsman Council quite often receives complaints related to the activities of **natural** monopolies in Ukraine, mainly utilities providing power, water, heat and gas. In addition to problems caused by the monopolist companies themselves, this also affects Ukraine's international rating for investment appeal, especially the issue of access to the power grid. Given the considerable visibility it has had socially and politically, the Council also prepared a systemic report on this topic which was presented in February 2016. This report also contained a series of further recommendations that, in our opinion, will not only make the procedure of being hooked up to the grid faster and cheaper than it now is, but will also minimize the corruption component that currently makes itself felt at various stages of setting up service.

Strong competition policy

is one of the cornerstones of an effective economy. Thus, in order to foster inflow of investment needed for sustainable growth, Ukraine needs to ensure existence of the strong competition environment. The importance of this issue is acknowledged, among others, in the DCFTA and through adoption of the National Competition Program for 2014–2024. The foregoing factors represent favorable context for implementing reforms aimed at making Ukrainian economy to be more competitive and marketoriented, where enhancing (and, where necessary, unleashing) institutional capacity of the Anti-Monopoly Committee of Ukraine constitutes its' key crosscutting element. Hence,

the Council prepared report discussing systemic problems and challenges in the sphere of competition protection and oversight, which was presented in November 2016.

The BOC's reports not just focus on the problems of systemic nature, but also on the new opportunities for doing business in Ukraine.

The construction sector and related business areas and processes have

traditionally been an area that government agencies have paid close attention to. However, overregulation, red tape and the costs related to getting permits and carrying out construction projects have managed to both restrict commercial activity on the part of businesses and to widespread corrupt practices that do little to encourage investment into the economy. The Business Ombudsman Council's systemic report "Reducing corruption risks and establishing conditions to attract investment to construction" presented in July 2016 is dedicated to this very issue.



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It should be noted that the BOC's dialogue with government agencies reached its all-time high by the end of 2016 with government agencies implementing 87% of all recommendations issued by the BOC since launch of operations compared to 63% at the end of 2015 – a staggering 24 percentage points rise.

This means that the institution has become the voice Ukrainian business did not have before in fighting corruption.

We would like to note the high level of responsiveness to our recommendations on the part of SFS and the Ministry of Justice – they implemented 91% and 97% of our recommendations respectively. Other institutions whom the BOC issued most recommendations, such as Ministry of Economic Development and Trade of Ukraine, State Security Service, Ministry of Agrarian Policy and Food of Ukraine and state enterprises also showed significant progress demonstrating over 90% of recommendations performance.

However, local councils and municipalities, top state bodies (Parliament, the Cabinet of Ministers, the President of Ukraine), National Police of Ukraine remain the laggard.

GOVERNMENT AGENCIES WHOM THE BOC ISSUED RECOMMENDATIONS IN 2015-2016 AND RATIO OF IMPLEMENTATION

RATIO of issued vs implemented





67% 2 ³

67% 2³

National Bank of Ukraine





5.3. Implementation and follow-up of systemic recommendations made to authorities

IMPLEMENTATION OF RECOMMENDATIONS ISSUED IN SYSTEMIC REPORTS



Systemic Report

"Problems for businesses as a result of the military situation in the East of Ukraine and the annexation of Crimea" (July 2015)

The recommendations in this report were fully implemented by the Government of Ukraine and involved, among others:

It made good on commitments to businesses whose employees were mobilized to serve in the military for a "particular term," by compensating them the average salary of these employees for the entire period from March 27, 2014, when Decree #1169-VII was adopted. This compensation cost UAH 2.1 billion.

The practical procedures for transporting goods (cargo) to and from the territory of the Anti-Terrorist Operation were dramatically improved and new Rules drawn up. The BOC worked to have the ban on the movement of Ukrainian rail cars withdrawn, among others, to transport Ukrainian property from the territory of the annexed peninsula of Crimea. This effort was considerably complicated by security issues that remain a concern to this day. Evenes Constant SYSTEMIC REPORT Gelectricity Constant Con

Systemic Report

"Getting access to electricity" (July 2015)

In 2016 the Council's recommendation **to move towards fixed rate for getting hooked up to electricity**, when the cost

calculation is based on power capacity declared by the customer, has been largely implemented.

In particular, on November 7, 2016 the National **Commission Conducting** State Regulation in the Spheres of Energy and **Communal Services** ("NCRECS") adopted Resolution #1946 "On Approving Amendments to the Methodology for Calculating the Fee for Connecting Power Units to Power Networks", which was registered with the Ministry of Justice of Ukraine on November 16, 2016 under №1485/29615 and became effective on November 22, 2016 ("Amendments to the Methodology").

To ensure equal access to power networks, the Amendments to the Methodology for the first time in Ukraine has **introduced universal rates/fees for a nonstandard hook-up**,

applicable regardless distance and utilized capacity of the existing power networks.

Hence, the cost of hook-up (whose declared capacity does not exceed 5,000 KWh) is now determined on the basis of two criteria only, namely: (1) cost of declared hook-up power capacity (in KWh) (set by the NCRECS individually for each energy supply company); as well as (2) cost of the linear component (the so-called "last mile") – i.e., distance from the customer's last point to the closed point accessing power network of the respective energy supply

company (depending upon the type of hook-up).

Hence, adoption of the Amendments to the Methodology ensured significant simplification and improvement of the procedure of calculation and determining payment for non-standard hook-

up of power units to power networks in the range from 160 KWt to 5,000 KWt, which does not capture only hook-ups required for implementation of large industrial and infrastructure projects.

It is expected that the Amendments to the Methodology would contribute to enhancing Ukraine's ranking in "Getting Electricity" index within the World Bank's 2018 Doing Business study, which is due to be published in fall 2017.



Systemic Report "Problems with administering business taxes in Ukraine" (October 2015)

In drafting changes to the Tax Code of Ukraine, a number of BOC recommendations were taken into account:

- The procedure for refunding the VAT was improved, partly in response to a court ruling.
- Methodological errors in the formula for determining limits were corrected.
- The basis was established for the proper functioning and technical support

of an electronic VAT administration system.

- The procedures for administrative complaints were improved through amendments to Ministry of Finance Decree #916.
- A criminal case can no longer be launched against a taxpayer who has no confirmed liabilities before

the tax administration through amendments to the Guidelines in State Fiscal Service Decree #22.

A full-scale electronic office for taxpayers should be available by the end of 2017.



Altogether, BOC complainants sold goods and services worth nearly UAH 642 billion, which is 12.1% of all goods and services sold in Ukraine in 2015.



Systemic Report "Problems with cross-border trading in Ukraine" (October 2015)

In this systemic report, the BOC focused on certain key issues in the regulation of international trade that affect business transaction costs and constitute an administrative barrier to foreign trade:

Regulating foreign economic activity – licensing and quota – whose provisions in existing legislation are unclear, opaque and open to improper interpretation or abuse; the existence and application of penalties in foreign economic activities that are an ongoing risk to uninterrupted trading.

- The quality of application of customs procedures, risks of corruption and the system of customs control that needs improvement.
- Trade in dual-purpose goods and the need to improve export control procedures.
- The interference of law enforcement agencies in customs procedures and their impact on foreign trade operations.

A number of steps have been taken to carry out the BOC's systemic recommendations.

In regulating foreign economic activities:

- The Law "Amending certain legislative acts of Ukraine (regarding the removal of administrative barriers for the export of services)" was passed.
- The list of goods that require licensing and the number of procedures involved in the export of scrap metals have been reduced.
- In 2017, a bill will be drafted to liberalize special penalties against entities engaged in foreign trade in Ukraine that are applied under the Law "On foreign economic activity" (Para. 10 of CMU Resolution #803-r dated October 5, 2016 "Certain issues on preventing corruption in ministries and other

central executive bodies.") Together with the USAID project "Leadership in Economic Development," the BOC has been working to draft the bill in question.

In applying customs procedures:

- With the efforts of the BOC, CMU Resolution #724 dated September 16, 2015 on using indicative prices to determine the customs value of goods, which risked corruption and caused constant complaints from businesses, was cancelled.
- After a meeting with the PM initiated and organized by the BOC, the procedure for amending customs declarations was simplified and amendments made to CMU Resolution #450 dated May 21, 2012 "Issues related to the use of customs declarations."

The changes improved the mechanism for refunding excess customs duties paid by businesses and regulated the amendment of customs declarations in line with transfer pricing rules.

In trading dual-purpose goods and improving export control procedures:

The Government has drafted a Concept for reforming export controls and licensing in Ukraine that reflects a slew of key BOC recommendations.

In the interference of law enforcement agencies in customs procedures and their impact on foreign trade

■ The BOC is engaged in ongoing work with individual experts and working groups involved in specific business cases, with top officials at the enforcement agencies, and with the Office of the Prime Minister.



Systemic Report

"Abuse of powers by the law enforcement authorities in their relations with business" (January 2016)

In 2016 we witnessed implementation of the Council's recommendation to amend Section 2.5 of the Methodological **Recommendations Regarding** Procedure of Cooperation Between Divisions of the State Fiscal Service while organizing, carrying out and implementing materials of audit of taxpayers, approved by the Order of the SFS of Ukraine #22, dated July 31, 2014 (the "Methodological Recommendations"), to

ensure that materials of tax audit can be transferred to the investigatory units for financial investigations only after final acknowledgement of the tax liability under the framework of administrative and/or judicial procedure (in case taxpayer sought judicial assistance – from the date when court decision entered into force).

In particular, on July 18, 2016 the SFS of Ukraine, by its' Order #633 (the "Order #633"), introduced amendments to the Methodological Recommendations providing that transfer of tax audit materials (including, inter alia, tax audit reports) to the investigatory units for financial investigations to enable the latter to adopt their decision pursuant to the provisions of the Criminal Procedural Code of Ukraine, is subject to prior approval of the taxpayer's monetary obligations (decrease of budgetary refund amount).



Systemic Report

"Natural monopolies vs competitive business" (January 2016)

In this area, BOC recommendations are not being implemented

very quickly. Among those already carried out, the BOC can point to the Law "On the National Energy and Residential Services Regulatory Commission."



Systemic Report

"Reducing the risk of corruption and attracting investment to the construction industry" (July 2016)

The Law "On regulating urban development activities" and other legislation were amended to replace the procedure for registering declarations of intent to build and commissioning a completed construction with building permits and a certificate.

- The schedule of site visits to developers who have the right to carry out Category VI complexity construction works has been published.
- As recommended by the BOC, a Draft Law is being drafted to establish harmonized conditions for

placing building materials on the market in line with EU requirements.



Systemic Report

"Challenges for the government and business in dealing with local government" (February 2017)

In the context of this report, the Verkhovna Rada adopted the Law "On amending certain legislative acts of Ukraine (regarding the voluntary consolidation of territorial communities)," which is currently awaiting the President's signature.
IMPLEMENTATION OF SYSTEMIC RECOMMENDATIONS ARISING FROM INVESTIGATIONS

PROBLEM

A scam whereby cars that have been used as collateral or are being leased are stolen during the process of reregistering them with Interior Ministry agencies.

BOC RECOMMENDATION

Amend CMU Resolution #1388 "On approving the procedure for registering, reregistering, or removing from the register, cars, buses and other vehicles" dated September 7, 1998, to require a mandatory check for liens on a vehicle in the State Register of Liens on Movable Property prior to registration with State Automobile Inspection agents.

ACTIONS TAKEN BY GOVERNMENT AGENCIES

The necessary changes were made by CMU Resolution #687 dated October 5, 2016.

The operations of schools that trained and retrained drivers, arranged their state accreditation, tested specialists and issued driving permits were blocked. Bring Interior Ministry regulations and bylaws in line with legislation, including the adoption of new versions of:

- Instruction on the procedure for examining individuals applying for driving permits and issuing such permits.
- Requirements of institutions that engage in training, retraining and professional development of drivers and the qualifications required of the specialists who do this work.

A new version of MIA Decree #515 "Instruction on how to test drivers" dated December 7, 2009 was adopted. A new version of the joint Decree of the Ministries of Transport, Education, Social Policy #255/369/132/34 "Requirements of driving schools" dated April 5, 2016, was also adopted and registered with the Ministry of Justice.

PROBLEM

A conflict of interests between the state enterprise responsible for metrology, certification and standardization of measuring instruments, which has been delegated the function as the only expert of calibration labs and other participants in the market

BOC RECOMMENDATION

Adopt a Procedure for issuing certificates of authorization to carry out checks of measuring instruments.

ACTIONS TAKEN BY GOVERNMENT AGENCIES

CMU Resolution #117 "On approving the Procedure or issuing or refusing to issue, reissuing, issuing duplicates, cancelling authorization certificates for the calibration of measuring instruments that are in use and are being utilized in legally regulated metrology, establishing pay rates for issuing authorization certificates, reissuing them or issuing duplicates" dated February 24, 2016.

Unsanctioned changes to product codes by customs agents when goods cross the border, leading to additional charges for businesses Inform all Customs Offices of Ukraine that they must enforce the decision of the 57th Session of the World Customs Organization Harmonized System Committee (contents of alkyd adhesive semi-finished primer, semi-finished varnish composite CL-030W, and so on).

This recommendation was carried out. An SFS Letter dated April 4, 2016, brought this to the attention of all Customs supervisors and the director of the SFS Specialized Verification and Research Laboratory. Raider attacks and illegal acquisition of assets through the unsanctioned access to the State Register of Immovable Property Rights Institute a mechanism to protect owners from unsanctioned interference in the Stat Register of Immovable Property Rights. The Verkhovna Rada adopted Law #1666-VIII "On amending certain legislative acts of Ukraine to improve the state registration of immovable property rights and the protection of property rights" dated October 6, 2016, which provides for a series of measures that significantly reduces the risk of illegal registrations.

No procedure for businesses that sell excisable goods to easily exchange excise stamps in case of changes in legislation after the company orders excise stamps of the previous type Amend the relevant regulations.

CMU Resolution of March 23, 2016, "On amending the Provision 'On making, storing and selling excise stamps and marking alcoholic beverages and tobacco products."





COOPERATION WITH STAKEHOLDERS



6.1. Working visits

One of the key commitments of the Business Ombudsman Council is furthering progress towards transparency among state, regional and local authorities, and among companies owned or controlled by the state. In addition, the Council will continue to facilitate ongoing, system-wide dialogue between business and government.



These are part of the Business Ombudsman's regional working visit series, designed for Mr. Šemeta to meet with business and government representatives and discuss current problems and opportunities to expand the investment potential of the regions.



6.2. Cooperation with government agencies

The Business Ombudsman Council actively cooperates with government agencies, especially those that are most frequently named in complaints from business. To make this kind of cooperation official, the Council signed Memoranda of Partnership and Cooperation with the government agencies that are most often involved in its investigations or could help the BOC to address problems faced by complainants.

NATIONAL ANTI-CORRUPTION BUREAU OF UKRAINE

On 27 January, 2016, Artem Sytnyk, Director of the National Anti-Corruption Bureau of Ukraine, and Algirdas Šemeta, Business Ombudsman, signed a Memorandum of Cooperation.

The bodies cooperate in identifying and eliminating the reasons causing criminal offences, providing recommendations to state and municipal authorities to improve anti-corruption legislation, as well as organizing public events on relevant issues.

NABU and BOC set up an expert group at the management level of both organizations. The group reviews complaints received by Business Ombudsman Office against actions of governmental agencies and statecontrolled companies to eliminate malpractice and to hold guilty liable.



"We signed the Memorandum with the Business Ombudsman to join efforts in tackling corruption and preventing business malpractice in Ukraine. I am convinced that overcoming corruption will lead to better business climate, economic growth and further reforms. Agreement with the BOC will let us rapidly receive information from businesses about possible corruption instances within NABU competency", says **Artem Sytnyk**, NABU Director.

Number of expert group meetings in 2016:



MINISTRY OF THE ENVIRONMENT AND NATURAL RESOURCES

On June 07, 2016, The Business Ombudsman Council signed a Memorandum of Cooperation and Information Exchange with the Ministry of the Environment and Natural Resources.

The provisions of the Memorandum call for the Council to provide information to the Ministry that reflects possible violations of the rights of business in the utilization of natural resources, air quality, water quality and the management of water resources, waste management, climate change, and the natural reserve funds.

The two sides hold working visits, exchange information that is of mutual interest, and assist each other in organizing and holding seminars, conferences and business gettogethers.

Number of expert group meetings in 2016:





Environment and Natural Resources Minister **Ostap Semerak** says: "We signed this Memorandum to join forces in reducing the level of corruption and prevent ill-spirited behavior towards business entities in Ukraine. I'm confident that eliminating corruption will help improve the investment climate here, and will spur economic growth and further reforms." Фото з focus.ua

KYIV MUNICIPAL STATE ADMINISTRATION (KMDA)

On July 14, Algirdas Šemeta and Vitaliy Klitschko signed a Memorandum of Cooperation.

KMDA is one of the first local administrations to sign a Memorandum of Cooperation and Partnership with the Business Ombudsman Council. The purpose of the Memorandum is to improve collaboration between the KMDA and companies operating in the capital.

An expert group was established within a Memorandum that reviews complaints from businesses regarding the actions or inactions of municipal agencies. This group includes officials from the KMDA and, on the Council's side, the Business Ombudsman's deputy and investigator. KMDA and the BOC review specific complaints against the work of the KMDA and its subordinate units, and cooperate to improve legislation governing business activities and remove barriers that inhibit doing business in Kyiv.

Number of expert group meetings in 2016:



"As a municipal government, we understand that working effectively with business is, first of all, the conditions that are provided for business to operate under. Clear rules for everyone, no red tape, and no corruption. The signing of this Memorandum with the Business Ombudsman Council should be the first step toward activating effective cooperation between the capital's administration and city businesses" – says Kyiv Mayor **Vitaliy Klitschko.**



NATIONAL POLICE OF UKRAINE

On September 7, Algirdas Šemeta and Khatia Dekanoidze signed a Memorandum of Cooperation.

The two sides also agreed to form a working group for the purpose of reviewing complaints from businesses, drawing up recommendations to improve legislation in those areas where the National Police is responsible for carrying out state policy.



For Ukraine's economy to flourish, and for business—small, medium and large— there needs to be far more investment to feel freer. And most importantly, the same rules have to apply to everybody. The police will tightly cooperate with the Business Ombudsman Council and will do everything we can to foster business development" – says Police Chief **Khatia Dekanoidze**.

Number of expert group meetings in 2016:

NATIONAL AGENCY ON CORRUPTION PREVENTION



On September 22, Business Ombudsman Council and National Agency on Corruption Prevention (NACP) signed Memorandum on Partnership and Cooperation.

The Memorandum is the basis for cooperation between institutions to identify and eliminate corruption risks. Upon the BOC's recommendation, NACP could perform inspections of local councils, state companies and their management. NACP could provide legal protection to the BOC's complainants in case of pressure by state officials. The Memo should ensure transparency of government agencies, facilitate in reducing corruption and fighting malpractice of state officials. We will facilitate cooperation between business and government in every way" – says NACP's Chief **Natalya Korchak**.

Number of expert group meetings in 2016:

The BOC continues to work tightly in the expert groups established within Memoranda signed in 2015 with key government agencies, namely the State Fiscal Service of Ukraine, The Ministry of Justice and State Regulatory Service of Ukraine.



Since November 2016, with a view to fulfil orders of Volodymyr Groysman and under the auspices of the Business Ombudsman Council, regional administrations of the State Fiscal Services (SFS) has implemented the practice of monthly meetings with entrepreneurs-taxpayers. During November-December 2016, meetings of the BOC's investigators, the SFS and entrepreneurs were carried out in 9 regions (Ivano-Frankivsk, Kharkiv, Cherkasy, Odesa, Volyn, Lviv, Dnipro, Kyiv, Mykolayiv regions).



On May 31, 2016, the Draft Law of Ukraine "On Business Ombudsman Institution" #4591 was approved by Verkhovna Rada of Ukraine in the first reading.

The Draft Law is aimed at introducing the institution of the business ombudsman at the legislative level as non-governmental and nonprofitable organization whose status is determined by the special law.

The Draft Law introduces the notion of the "submission

of business ombudsman". The submission is the official document containing recommendations of business ombudsman, which state authorities must accept into consideration and provide well-grounded answer to.

The Draft Law not only envisages the duty of state authorities to disclose official information but also introduces administrative liability for the failure to disclose such information. Besides, the business ombudsman and his deputies are vested with the right of free access to state authorities as well as the right to interview state officials.

Criminal liability is foreseen for the obstruction of activity of business ombudsman, his deputies and inspectors as well as special procedure for bringing them to criminal liability.

At the moment of publishing the Report, the Draft Law was awaiting final approval in the second reading.

6.3. Public outreach and communication

Communication with the public is essential to the Business Ombudsman's role. Our Office uses media and technology wherever possible to engage and inform Ukrainians – and to ensure public appearances by the Ombudsman and his team reach a wide audience.

THE MEDIA



The Business Ombudsman Council communicates with the media to exchange information and does not, in any shape or form, provide financial compensation to editors or journalists for mentioning its activity or its speakers.

Since launch of operations, the Business Ombudsman and his Office were cited in the media

10000+

86% of mentions

were online, while the remaining citations were evenly distributed among the national press, television, and information agencies (3-4% for each medium). The estimated advertising value of the articles in 2016 was

UAH 5.2* million

based on newspaper advertising rates, circulation and page display.

*according to the data by Context Media monitoring agency







SPECIAL PROJECT

Together with FOCUS magazine, we launched "Business against the system" special project. We feature stories of our complainants – Ukrainian entrepreneurs who faced corruption in Ukrainian government agencies – but solved their problems with the help of the Business Ombudsman Council. These are stories of businessmen who were not afraid to challenge the system and stand upon their rights.



Our interviews were published in the leading Ukrainian media:

Novoye Vremya (New Time), a weekly magazine; Delo.ua portal; the KyivPost, a weekly newspaper; Biznes, a business weekly, FOCUS magazine, Segodnya, a daily newspaper, Livyy Bereg portal, the Den' newspaper; the Platforma portal; the LigaBusinessInform portal; the HUBs portal; the Ekonomichna Pravda portal; RBC Ukraine, a news agency; Ukrinform, a news agency, Ukrainski Novyny, a news agency, UNIAN, a news agency.



We also made a range TV

(Pershyi Nationalnyi Channel (Persha Shpalta), Espreso TV, Hromadske TV, ZIK, Channel 5, UBR, Kyiv, 1+1) and radio appearances (Golos Stolytsi, Vesti, Hromadske and Arystokraty radio stations).





Advocating for business with the government

SOCIAL NETWORKS

www.facebook.com/ 😕 🕅 BusinessOmbudsmanUkraine

2500 followers have subscribed to our Facebook page a 600/0 increase over the previous year The BOC did not resort to any advertising campaigns in 2016 and focused on qualitative content in social media. We use Facebook to share information about our Office, our work, and news of interest in the oversight field.

"The work of the Business Ombudsman's team is a pleasant surprise. Over several months of concerted effort, they were able to make the Vinnytsia Tax Office more aware and to persuade them that laws apply not just to businesses but to government officials as well. We were refunded our VAT and the illegal resolution of an inspection was overturned. This was the first time that we didn't have to resort to going to court. Thank you and we wish you every success!"

@Mark Kravetskyi через Facebook

"It's been really eye-opening to watch how the BOC team operates. I decided to use the opportunity myself and turned to them for assistance. At the moment, two complaints of mine are under review... Your work is complicated, honest and interesting. Moreover, you approach it calmly, confidently and methodically. No doubt that this is a reflection of your management. I would like to separately note those who administrate your Facebook page and post news on the BOC site. I find it all very fresh, creative and interesting, and every time I look there, it's something new, done in a new way! Thanks to your team for its work and the best to everyone!"

@Alexandr Avramenko через Facebook

WEBSITE

The BOC's website **www.boi.org.ua** was launched on May 20, 2015. It is a one-stop shop for anyone who needs to submit a complaint, access BOC's reports, articles, find news and information about our Office, or contact us through social media.



35094 users browsed the pages of our website a 65% increase over the last year

According to Google Analytics

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OUTREACH

29-01

UNDP Conference: Development of Business Support Infrastructure in the Donetsk and Lugansk Regions

10-02

6th Ukrainian Paints and Coating Conference

23-03

Forum "Reconstruction through Dialogue" in Mariupol held by OSCE Project Coordinator in Ukraine

29-03

KyivPost Conference "Capturing New Markets"

13-04

Conference "Ukraine – Austria. Business opportunities and investment reliability"

14-04

International Energy Conference: "Integration of Ukrainian and EU energy systems: Reforms and cooperation by the Central-European partners" 21-22-04

Nordic Business Day in Odessa

22-04

Ukrainian Infrastructure Forum '16

27-04

Second National Export Support Forum

17-05

NEW Ukraine 2016 International Investment Conference





www.boi.org.ua





International Business Forum "Ternopil Invest-2016"

20-05

Ukraine – EU: Turning Challenges into Opportunities

31-05 STOP Corruption Conference

07-06 Il Business Forum

13-06

Fifth Swedish-Ukrainian Business Forum

13-06

Business Forum "The white start and win"

16-06

USAID Conference "Leadership in economic governance"

01-07

Round table: "Abuse of powers by the law enforcement authorities in their relations with business" together with OECD

04-07

Meeting of the National Reforms Council headed by the President of Ukraine to discuss the issue of deregulation reform

05-07

Anti-raider press conference the Ministry of Justice





ACC meeting with focus on Recommendations of the Business Ombudsman Council regarding decreasing corruption risks and establishing proper condition for attracting investments in construction industry

14-07

Second "Trade Related Infrastructure in Ukraine Dialogue" hosted by the U.S. Commercial Service of the U.S. Embassy in cooperation with the Ministry of Infrastructure of Ukraine

8-09

Formal Ceremony of Sida's private sector development programmes in Ukraine

6-09

EU Launch of FORBIZ, the principal project for improved business environment in Ukraine, hosted by Delegation to Ukraine in partnership with Ministry of Economic Development and Trade of Ukraine

09-09

International Reception SUP

14-16.09

Roundtable "Anti-Corruption Reform and Strengthening Integrity in Ukraine" in the framework of the ACN Plenary Meeting at the OECD in Paris

20-09

Round table of the Ministry of Ecology "European integration in the sphere if ecological assessment"





UA-BE Joint Economic Commission and Business Forum at Diplomatic Academy

21-09

Kyiv Conference for Entrepreneurs "Algorythms of success"



27-09

Launch of the OECD Investment Policy Review: Ukraine 2016 devoted to assessment of Ukraine's investment climate and a series of policy recommendations to improve the country's business environment

29-09

Corporate Governance Conference organized by PwC for top-managers of Ukrainian SOEs.



14-16.09

Business Ombudsman Algirdas Šemeta was invited to speak at the well-known 2016 Athens Democracy Forum. Hosted and moderated by New York Times editors, and presented under the auspices of H.E. The President of the Hellenic Republic Mr. Prokopios Pavlopoulos, the fourth annual Athens Democracy Forum brought together politicians, policy makers, journalists, scholars and experts from the fields of business, finance and technology to explore the challenges to liberal democracy and ways to face them.







Compliance Club Meeting at ACC "How an Effective and Efficient Compliance Program Helps to Attract Foreign Investors"

17-10

Launch Event #MAKEREFORMSHAPPEN by OECD. Program, launched in 2007 and aimed at analyses of the reform experiences of the 30 OECD countries.

21-10

National Business Forum: "Ukraine is the country of businessmen", organized by Ukrainian League of Industrialists and Entrepreneurs. Forum brought together over 400 young entrepreneurs as well as those who only dreams about own business.

21-10

Round table: IT and Law Enforcement Agencies, organized by Association "Information Technologies of Ukraine"

31-10

Roundtable with U.S.-Ukraine Business Council (USUBC) "Role of compliance in fighting against corruption in business and state"





01-02.11

OSCE Forum "Reconstruction through Dialogue" in Severodonetsk

09-11

Business Roundtable for members of U.S.-Ukraine Business Council (USUBC)

09-11

9th Investment Forum in Kyiv

14-11

Policy briefing: "The EU-Ukraine Association Agreement: how is it shaping Ukraine" by Ukrainian Institute for Public Policy

Thanksgiving Day and Business Award Ceremony by ACC (Business Ombudsman Council received 2016 Thanksgiving Award from American Chamber of Commerce in Ukraine for fighting corruption, simplifying bureaucracy and improving business climate in Ukraine).

22-11

Regular meeting of the Donor Coordination Technical Working Group on Anti-Corruption, co-chaired by OECD and UNDP

28-11

Speech before the students of Kharkiv University of Internal Affairs

02-12

Second International Conference of Commerce and Industry FTA: Opportunities and Challenges for Ukraine and Partners by Chamber of Commerce and Industry of Ukraine.

09-12

Forum "International Anti-Corruption Day in Ukraine-2016" by Cabinet of Ministers of Ukraine

09-12

Presentation of 2nd report "Ukraine and Association Agreement: monitoring of implementation from July, 1st – November 1st 2016", organized by NGO "Ukrainian Centre for European Policy".

12-12

Ukrainian – Lithuanian Economic Forum in Kyiv







On 25-28 October, the team of our investigators attended the training course in Canada "Sharpening Your Teeth: Advanced Investigative Training for Administrative Watchdogs" and learned a great deal from Canadian colleagues' long-term expertise.





YOUR FEEDBACK





SU «Dindin mana», syn. Cinecsen 9 manuez, w. Kalin, 04070, Vapala

Шановния наит Алгурдот та Баша концал. То слявие забларідна Баргоссті за био заругатся то каранство з обченення кілянаральність с'ядитеми для Маночев сообдави, що садяни із набільших есплуятерія неотчей болес-койдодзьних, у аїхор з трацього (клянд різ) аграманно барантного кідисардяння з болес-койдодзьних, у аїхор з трацього (клянд різ) аграманно барантного кідисардяння з неніализиминого ПДВ сольшо 19.543 312 (дагіглацать нільТой ста шісталог зари пасни негіого ананацций, заминий до відліналузення сумо ГДВ підтивої заполідними агомання ная були прамади, наличні до відликардення сумо ГДВ підтивдини алеман сато актоми.

Не диатчисть не частотой перентони Гілариността до органія заклованой пада різнота різно на за центрацькита та вацак даровання організми потован з посадовой боладититі абіоратованості з ПДВ закавалося иннарійних на западавано гербляний аконда філокованы інтеретон. Тотороста, учее интутитино инникали на западавано гербляний сахода філокованы інтеретон Тотороста, проветсти до фитальних насладаїв для законоснужанние срії отла техновать сей афіка. Українськи наконогі працядній начине законоснужанних срії отла техновать сей афіка. Україння праводок наконого працядній начине законосно собя наконосні Корої та інад держава, для забягансті Уліфітити на собядавано законтова наконосно.

Ления після закранняя ТОВ. "ТД. "Молучая смобода" в Раду бізнес-смобрданняя за разуча цього петания у возначаній устанкий вся сума басрятуки із морутарачесті з відлякодування ПДВ гомералована на розполитичної дохумен Пладичесьтва.

Беросовращи супроводствия ригуляцу сворсе ТОВ "7Д "Молочна слобом" про внатопратики ПД зибличнать інституто Раз Понос-колудитити Олет Критарский, когд дуже зайдот отлінарцията з адележдальники фаліоцики та кардоникани на анная Техеродський, ката дуже Марачестван полаточни органда най рінка, манитарчика найбільца аператован та ефективно для підарокостальногоргара розгодору своду.

полнати портания и таду тересонаранные запрачное тереного частность напрачени условнаятия постадир поду на упруги нада разлику натичность проблем подушения при разликатия постадования. Прог/гр-нойогра Україна Тройськова Валадонира Воресонна прагативнитав болеку, коу натичувая служба Баласон Окранита на кой надана и натиса бри потан истания з розлику содит 100 "10". Малочее сообсана", Пригар-инітер Україна заван раучення оргона. 2006 годовани напалярникая соди наякой баранся на собратованих нация поточного техня. Захимичен доржена браз аймите ваниеть Саветов Сабропланого 1000. годорання нати переократив доржена брази в напания баранство Сабропланого 1000. годоранняя нати переократив доржена баранся нали баране напания баранство Сабропланого 1000. годорання нати переокративной доржена каралания совите баранство Сабропланого 1000. годорання нати переокративной правона баранство собратования нати поточного технях. Поличения доржена баран в напания баранство собратования 1000. годорания нати правото парадона совида рабо з избаления правото. На годо и ценей Вак сообъесть нависями поли парай и совий поданость совита правотования собратования собратования совита правотования собратования собратования собратования нати подания собратования собратования собратования натически правотования собратования натися подания собратования натися подания собратования натися в собратования натися подания собратования натися подания натися натися

фаліныї наконного професійного рішня, за дісле та онеративня ворішення патання про полернено базметної аббортованногі з ПДДР, ща бухо для підпросостав нераб пакливнят та аступлини. За самот баки азміни закантични нако ти, нак станиция блика саблика саближива, на литизит

інтотуції, є дуня синстанова та необхідним держанни рідними, що должним забезеннят офессиону систему получілиції бізногу з доржаннями прим'яти полити на нанеснційну правобликіть такой даржана на німевдодальну ріка.



Establishing the Business Ombudsman Council is a very timely and necessary initiative that will facilitate the efficient communication between the business and government agencies.

It's exactly the Business Ombudsman's role that was decisive in tipping the scale in favour of business. TOROUGHO & OSWERSON A BUILDING AND THE PARTNER

na na <u>2.6.9</u> na 29 Depense 2016 a.

Page Elsenc out/genue

3 вдечество понідонитилно Вак про та, що розотад ношкі занан про повержения каштів та сорека транкатота у тар рози нак соста полотание заведними. Заговолось, пр ріловити при заведнения на Рафа Ване-забудськима було трайнита післи кітаста бедоторичатили сороб веділения накого соронот, питания в адайлістратильску горорар, коли сотупал нате заведники.

Тими присоніция було побачили цар в Україні стакурни та дія структура, ная на лиция подає бізнису руку оплакоти, але готова пройти раком з Бонесом всі навітелні обставина.

Анатороче внески канекто, это наваенися здотати зай жур карейстративних перешала, ножнозарято заяватих сана учесть Ради Волео-сибудовны стала таке вершиенное обставляное, као переваноска зательти все на сторому Волео,

praes dies zo yvorm, me chiepofilmanymes.

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Advocating for business with the government

Shell Retail Hikrai

Out. ref# nber / *, 2016

To: Mr Algirdas Šemeta Business Ombudsman in Ukrain

Dear Mr Šemeta,

ehalf of Shell Retail Ukraine would like to express our deepest res udsman in Ukraine Council for the providing kind help on imp abint of the company to decisions to fine company of the Main De city as a result of auditing.

your recommendation on the case # 1606171030020 we are thrilled b d the positive decision of State Fiscal Service regarding the main issues.

regent I would like to extend our itself extra registing on immedia period I would like to extend our intercest appreciation and note the important role of Mr. Oleksy Buiness Ombudtman Investigator, who made this project successful The extra time and effort it sere certainly worthvilke We also would like to note that Mr. Spivik has a strong knowledge of eminin tax legislation and deep understanding of issues that we faced during our company's tax

whell is proud of such amazing cooperation, and I thank you again for this excellent support. Shell Retail Ukraine avails itself of this opportunity to renew the assurance of its highest consid



Shell is very proud of such amazing cooperation, and thank you again for this excellent support.

We appreciate the service you and you organization provide to the country and to those who invest in Ukraine, contributing significantly to disseminate a culture of business ethic, integrity and transparency.

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ATTN Director Mr Sevki Ace

individuous for the excellent service of ent of my work permit as General Di-

wrangasisovet. Having abracky a work permit as General Director of the Livy but Having abracky a work permit as General Director of En Ukraine LLC, the task was a new, and meet of other cosmitting parties hud given me negative feedbacks. While I done was no finalities solution, Business Cobubatana believed that it was work huis Employment Centers of Kiev and Lsvin e edde to support a englor interastional investor Let new in general luke this opportunity to reintense Exist agenetication provide to the coverty and to thone who invest to Ukraine, contributing sig discussions and contrast of the solution of the specifies of the service y ergenization provide to the coverty and to thone who invest to Ukraine, contributing sig discussions are specified to the solution of the specifies of the service y from the beginning till the very end.

Relli



We are convinced that the BOC's activity disciplines the government agencies

many & model an. 304, Kuta 04070, P

Advocating for business with the government

WHAT YOU SAY ABOUT DEALING WITH US

"I liked the professionalism of BOC staff, their can-do attitude, their accessibility and open communication." "I was impressed by responsiveness and systematic approach of the team." "I liked modern approach to addressing issues, prompt, fast, simple and clientoriented."

"We liked the courteousness of BOC personnel, their genuine desire to understand the essence of the problem, and the ease of communication.

"It would be great if the BOC had a rep office in the regions. "For me, it was very important that the BOC understood the essence of the problem and was able to properly present the case to government agencies. The most key, for me, was that the BOC didn't take form letters for an answer, such as from the Kyiv Prosecutor's Office on the progress of investigations in which I was the victim. This suggests a fair and impartial consideration of my case, for which I thank you very much."

"We believe it is necessary to increase the BOC's team to review a bigger number of complaints." "We would like to note the highly organized complaint investigation process followed by BOC employees, and their objective, professional approach to analyzing nonstandard situations." "We were honored to work with the Business Ombudsman Council and would like to thank you for the attention to details, constructive case assessment, and the Council's transparent and open position." "I was impressed by how effectively the team worked, their deep understanding of the essence of the problem, their quick response to changes in the circumstances of the case, their genuine desire to help a complainant, and the overall professionalism of the Ombudsman's team.

"It is desirable that the BOC has more power according to the legislation." "What I most liked was the qualified specialists. The comfortable form of communication and electronic document flow. The focus on a positive outcome, not on the appearance of work. Transparent relations and actions. The way they maintained constant contact, planned and coordinated joint actions with the complainant, and reported on the status and results of their work."

Follow us:

www.facebook.com/ BusinessOmbudsmanUkraine



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