



ANNUAL REPORT

2018



BUSINESS
OMBUDSMAN
COUNCIL

www.boi.org.ua

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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,

It is a great pleasure to present you the Business Ombudsman Council's Annual Report 2018.

When it comes to summing up the results of 4 years of operations in Ukraine and our contribution into business climate improvement, we prefer figures to speak for themselves. We received over 5000 complaints on state bodies malpractice from businesses and closed over 3000 cases. The Council helped companies to recover over UAH 13,3 bn, cease hundreds of episodes of state bodies' malpractice, close dozens of ungrounded criminal cases, obtain licenses and permits.

In 2018 alone we received 1792 complaints and closed 1439 cases, which is +9% and +38% respectively as compared to 2017. I am proud that we managed to reach the 97% applicants satisfaction level and state bodies implemented 94% of our recommendations by the end of the year.

Traditionally, tax issues (61%), actions of law enforcement bodies (14%), malpractice by state regulators (7%) and local municipalities (4%) constituted vast majority of complaints. Within those four groups we observed both positive and negative developments. Among the positive – an overall decline in number of complaints on state regulators and local municipalities, significant reduction of inquiries related to VAT refund and activity of State Security Service. On the flip side of the coin - a notable increase of complaints related to imposition of ungrounded additional taxes and penalties as a result of tax inspections, growth of complaints more than by half linked to tax criminal cases, as well as activity or inaction of National Police and General Prosecutor's Office.

As for the less frequent subjects of complaints, businesses lodged less appeals concerning actions of state-owned enterprises, customs issues and legislation drafts but more regarding the Ministry of Justice.

I am pleased to mention several noteworthy systemic wins of 2018 based on our recommendations to state bodies:

- The law, known as #MaskShowStop2, expanding mechanisms for challenging illicit actions or inactions on the part of law enforcers and bringing them to personal liability, came into force.
- The Verkhovna Rada adopted the Law "On Currency and Currency Transactions" and effectively abolished special sanctions in export/import operations.
- State registrars are no longer able to carry out registration actions with immovable property with the breach of territoriality rules due to software/technical changes implemented by the Ministry of Justice.
- The National Energy and Utilities Regulatory Commission approved fixed rates for getting hooked up to electricity, with the price to be calculated based on the quantity of power capacity declared by the customer.
- State Architectural and Construction Inspection launched online tools which contain all documented information about the construction, thereby increasing customer usability and eliminating risks of abuse.
- The law introducing a "single window" approach to customs clearance has become effective, – thus ensuring fulfillment of the respective recommendations set forth in our systemic reports on international trade and customs.

Special focus of this report is dedicated to the review of major implemented and still pending recommendations, issued throughout 2015-2018 in all 13 Council's systemic reports. We succeeded

in persuading state bodies fulfilling financial commitments of UAH 2 bn to businesses whose employees were mobilized to the ATO. We contributed a lot to deregulating construction and getting access to electricity spheres, administrating taxes and protecting competition, dealing with natural monopolies and local councils. Widespread in media, the law known as MaskShowStop was also based on our recommendations. As set forth in our reports, state bodies moved forward in combatting raidership and reforming state regulators, solving some urgent issues in customs and labor related areas. A lot has been done already, but we never catch a break and keep on monitoring the implementation of the rest of recommendations, as well as selecting next systemic topics for analysis.

Business integrity remained high on our agenda. We continued our strong support to Ukrainian Network of Integrity and Compliance (UNIC). Jointly with UNIC and other partners we held a series of regional seminars on business integrity and compliance. We believe that collective actions are critical to raising awareness and building capacity to improving business integrity in Ukraine.

While we are proud that we have already contributed a lot into Ukraine's improving its positions in World Bank's Doing Business ranking and the corruption perception index, we realize that this would not be done without the support of our partners and donors. We also believe that organization would be even more effective with new opportunities, envisaged in the draft Law on the Business Ombudsman Institution. We are convinced that its long awaited adoption would strengthen our capacity in protecting legal rights of our complainants.

Since the first day of operations, the Council has supported Ukrainian business in pursuing long overdue justice by encouraging transparency, the rule of law, and constructive dialog with the government. And we have the commitment, expertise and enthusiasm to continue our endeavors in this regard.



Algirdas Šemeta
Business Ombudsman
of Ukraine

A handwritten signature in black ink, which appears to be 'Algirdas Šemeta'. The signature is fluid and cursive, written over a white background.

ABOUT OUR OFFICE



Business
OMBUDSMAN
Council

WHO WE ARE

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 Business Ombudsman Council officially launched its operations on May 20, 2015.

THE BOC IS FUNDED

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



European Bank
for Reconstruction and Development



THE DONORS

of the Multi-donor Account for Ukraine include the European Union, Denmark, Finland, France, Germany, Italy, Japan, the Netherlands, Norway, Poland, Sweden, Switzerland, the United Kingdom and the United States.



Due to efforts of the Council, the complaint was considered in compliance with all requirements of the current legislation, objectively and impartially. We value the openness and readiness of the Council to help businesses in Ukraine.

Simon Wellford

General Director of British American Tobacco Ukraine, LLC

THE SUPERVISORY BOARD

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

Government agencies:

The Cabinet of Ministers



International financial institutions:

the EBRD

Organization for Economic Cooperation and Development (OECD)

Independent business associations:

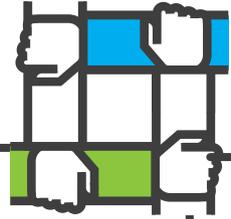
the American Chamber of Commerce

European Business Association

the Federation of Ukrainian Employers

the Ukrainian Chamber of Commerce and Industry

the Ukrainian League of Industrialists and Entrepreneurs



Chaired by
Matteo Patrone,
EBRD Managing Director,
Eastern Europe and the Caucasus.



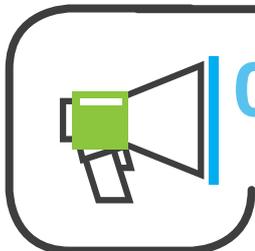
Every block has one vote in the Supervisory Board

OUR GOALS



01 Facilitate the fight against corruption and other business abuse

02 Contribute to greater investment attractiveness of Ukraine



03 Promote a public service culture of fairness, openness and accountability

OUR GUIDING PRINCIPLES

Independence

Neutrality

Accessibility

Openness and transparency

Accountability

Integrity

Confidentiality



We express our sincere respect to your team for the active and unchanging position in protecting the legitimate rights and interests of Ukrainian business.

Inna Khomych,
 Director of Legal Issues
 Nova Poshta- Center, LLC

TEAM

The Business Ombudsman Council includes the Business Ombudsman, two Deputies, and the Secretariat.

The Business Ombudsman Council:



Algirdas Šemeta,
Business
Ombudsman



Tetyana Korotka,
Deputy
Business
Ombudsman



Iaroslav Gregirchak,
Deputy
Business
Ombudsman

The Secretariat:



Andriy Bodnarchuk,
Investigator



Yurii Gaidai,
Investigator



Vladislav Zhabskiy,
Investigator



Volodymyr Zabudskyi,
Investigator



Oleh Krykavskyy,
Investigator



Olena Kutsay,
Investigator



Volodymyr Kutsenko,
Investigator



Oleh Mykhaliuk,
Investigator



Kirill Nominas,
Investigator



Maryna Pavlenchyk,
Investigator



Yuliana Revyuk,
Investigator



Kyryl Slastunov,
Investigator



Oleksiy Spivak,
Investigator



Tetiana Kheruvimova,
Investigator



Oleksandr Khomenko,
Investigator



Andrii Chornous,
Investigator



Ksenia Velychko,
Junior Investigator



Ivanna Gumenna,
Junior Investigator



Yuliia Mykhailuik,
Junior Investigator



Vasyl Sukhovi,
Junior Investigator



Olga Seleznova,
Chief Communications Officer



Iryna Stanislavska,
Communications Coordinator



Alla Cherniak,
Administrative Manager



Iryna Galanina,
Assistant to Business Ombudsman



Yulia Lebedeva,
Team Assistant



Oleksandr Bobrov,
IT Manager



Olha Nykonchuk,
Receptionist



Vitaliy Kirmach,
Driver

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

32
people

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

WHAT WE DO

Every quarter we receive hundreds of complaints from businesses regarding business malpractice by state authorities and civil servants as well as state-owned or state-controlled companies. In case the entrepreneur has not yet attempted to resolve the issue using other instruments, we will refer him/her to appropriate bodies. However, if he/she has followed this path, but didn't succeed, we will review the matter. We do not treat complaints formally and help complainants find their way out as promptly and efficiently as possible.

The Business Ombudsman's support testifies your indifferent attitude to conducting transparent business in Ukraine".

Stanislav Kovalenko,
Director of PROEKTGAZBUD, LLC



WHAT WE CAN DO:

NAVIGATE

the bureaucracy to find a solution, if your efforts to do so have failed

HELP RESOLVE

your issue through liaising with the public and the relevant authorities

DETERMINE

whether the complainant's and government agency's actions were fair

REFER

you to others who can help, if the matter exceeds the scope of our activities

FLAG TRENDS

in complaints to government officials and recommend systemic changes to the legislation affecting business as a whole

WHAT WE CAN'T DO:

Overturn decisions of courts

Take complaints about private business, judges or court decisions

Take inquiries if the complainant hasn't exhausted at least one instance of administrative appeal process

Review complaints if over one year has passed since last occurrence of malpractice



REPORT HIGHLIGHTS AT A GLANCE



1439

closed cases

1792

complaints
received in 2018

+9%

as compared
to 2017

+38%

as compared
to 2017

66%

received via
email/website

34%

received as
hardcopies

TOP-5 BLOCKS OF COMPLAINTS:

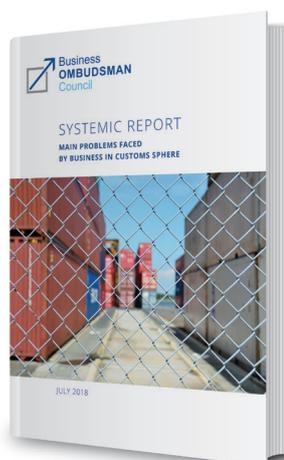
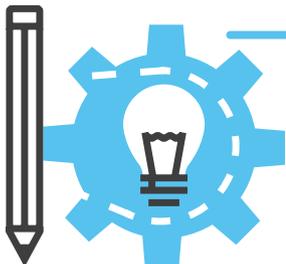
Tax issues	61%
Law enforcement agencies actions	14%
Actions of state regulators	7%*
Local councils/municipalities actions	4%
Ministry of Justice actions	3%

**In this report we added the National Energy and Utilities Regulatory Commission, the National Bank of Ukraine and the National TV and Radio commission actions to the state regulators block.*

TOP-5 MOST ACTIVE REGIONS:

Kyiv	36%
Dnipro Oblast	10%
Kharkiv Oblast	8%
Kyiv Oblast	7%
Odesa Oblast	7%

2 SYSTEMIC REPORTS ISSUED:



Main Problems Faced
by Business in Customs
Sphere



Business Focus
on Labor-Related Issues

COMPLAINANTS' PORTRAIT

Size of business:



Foreign/local:



7%

Individual Entrepreneur

9%

Real Estate and Construction

10%

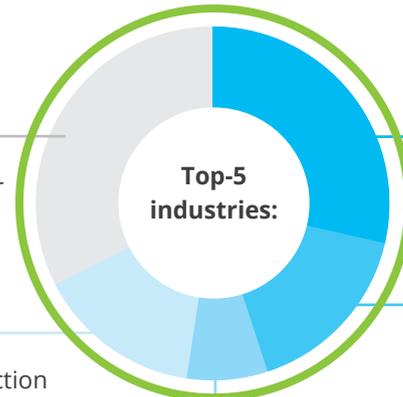
Agriculture and Mining

29%

Wholesale and Distribution

13%

Manufacturing



IMPLEMENTATION OF KPIS



	Target value	Result in 2018
Percentage of cases in which the standard investigation duration of 90 days is met	80%	82%
Share of satisfied complainants	75%	97%
Ratio of recommendations taken by relevant government authorities within 6 months of receipt	50%	87%

2185

recommendations issued in 2015-2018

94%

of them were implemented as of December 31, 2018

UAH 2 billion
direct financial impact in 2018 alone



UAH 13.35 billion
total financial effect (2015-2018)

total financial effect (2015-2018)



HOW WE WORK

1 Assess complaints

The complainant receives response within 10 working days if his/her complaint is eligible or not.

2 Investigate complaints

We examine the complaint in more detail and give response within 3 months from the date on which we initiated the investigation.

3 Issue and monitor recommendations

Our staff follow up all our recommendations until they are properly implemented, and monitor to ensure problems don't recur.

5 Communicate

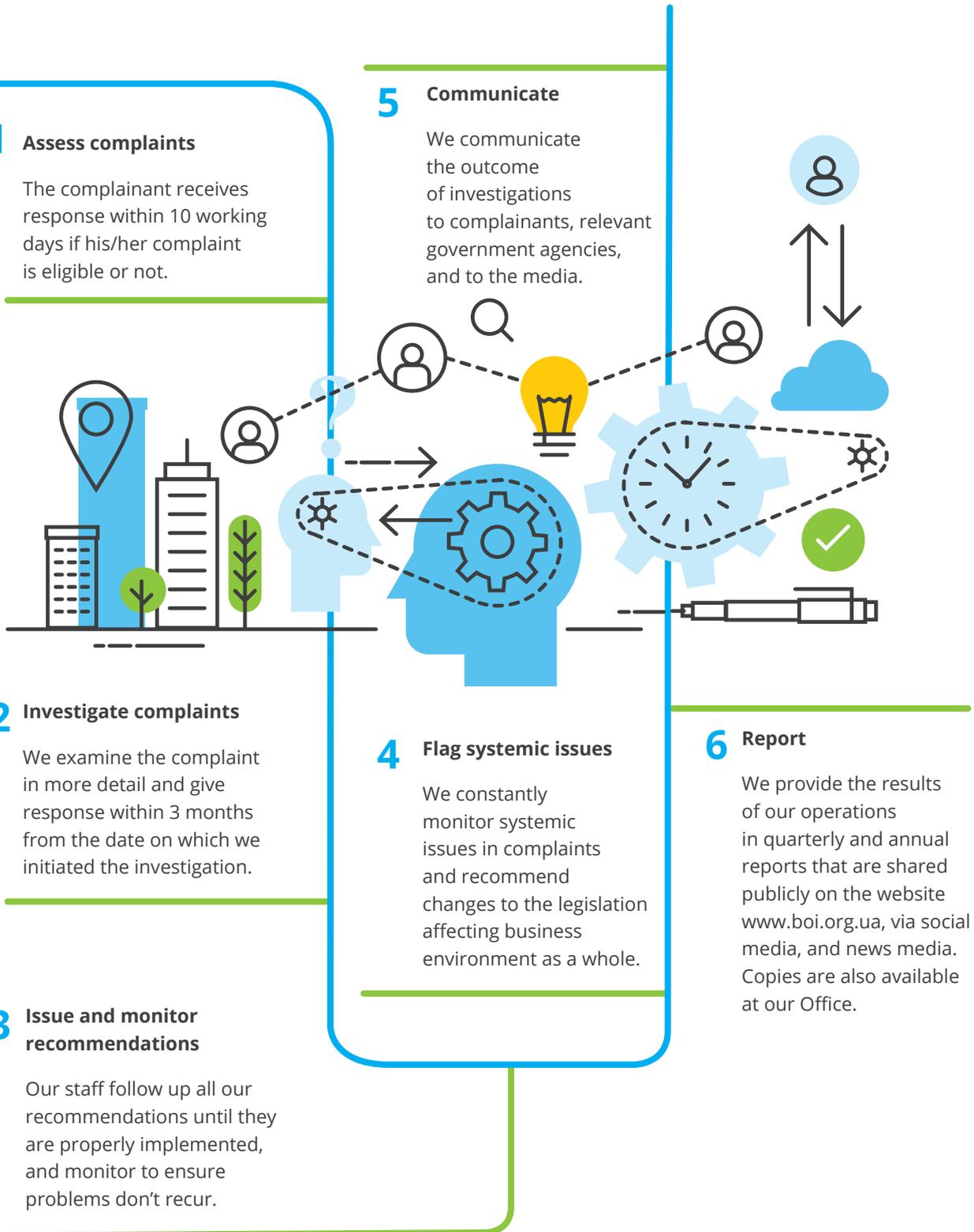
We communicate the outcome of investigations to complainants, relevant government agencies, and to the media.

4 Flag systemic issues

We constantly monitor systemic issues in complaints and recommend changes to the legislation affecting business environment as a whole.

6 Report

We provide the results of our operations in quarterly and annual reports that are shared publicly on the website www.boi.org.ua, via social media, and news media. Copies are also available at our Office.

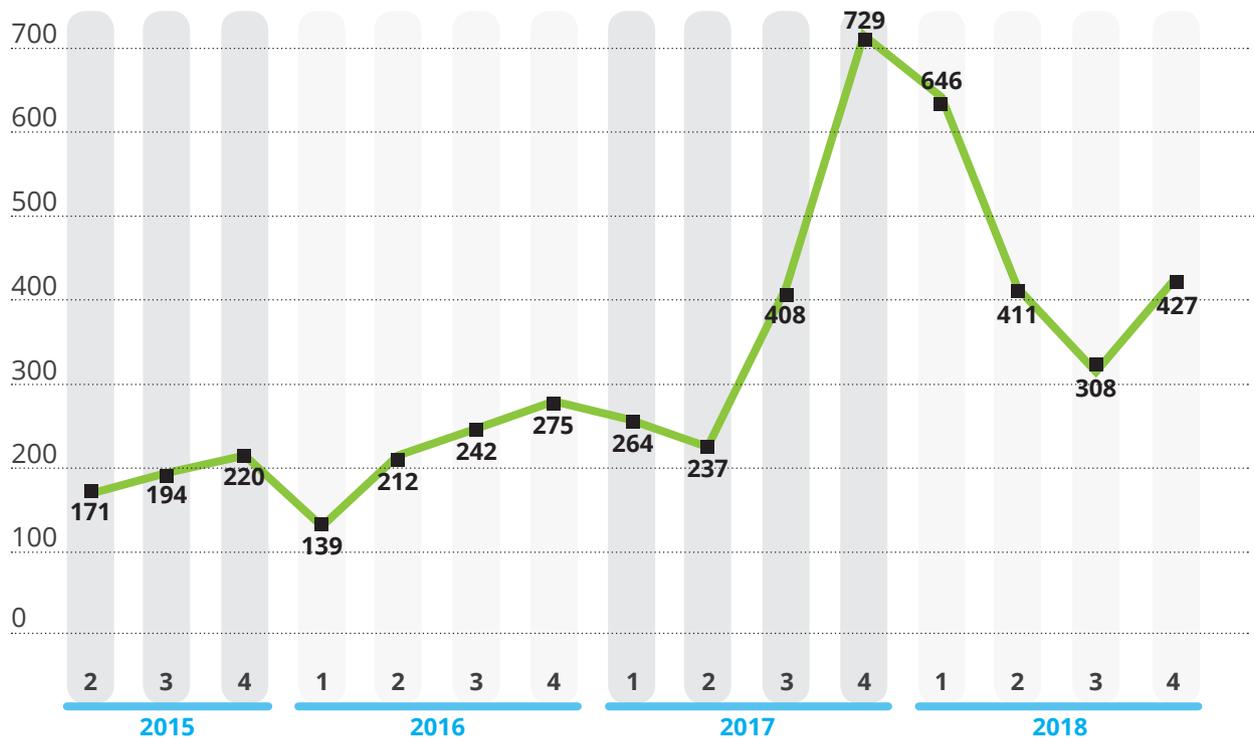
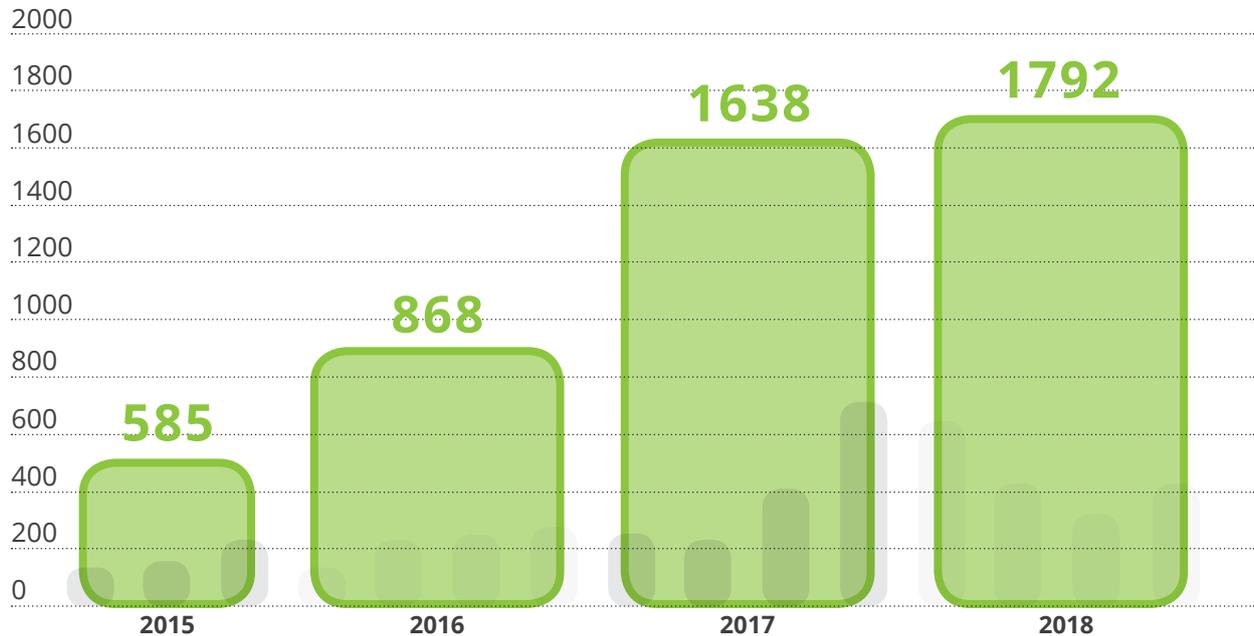




1 **YEAR** **IN REVIEW**

1.1. Volume of complaints received

(Clause 5.3.1 (a) of Rules of Procedure)



The peak of complaints on state bodies malpractice received by the Council is recorded in Q4 2017. Since then, the number of appeals had been steadily declining throughout 9 months of 2018. Eventually, the number of complaints went up again in Q4 2018.

1.2. Government agencies subject to the most complaints

TOP-10 GOVERNMENT AGENCIES SUBJECT TO THE MOST COMPLAINTS

	Number of complaints received in 2018	Change as compared to 2017	Change as compared to 2016	Change as compared to 2015
State Fiscal Service	1151	9%	139%	372%
National Police	112	58%	239%	387%
Prosecutor's Office	108	54%	209%	272%
Local councils and municipalities	66	-26%	-20%	83%
Ministry of Justice	56	30%	124%	44%
State Security Service	33	-15%	74%	200%
Ministry of Finance	23	64%	156%	360%
Ministry of Ecology and Natural Resources	22	-8%	100%	144%
Ministry of Social Policy and Labour	20	100%	233%	233%
Parliament, the Cabinet of Ministers, the President	19	-37%	6%	-44%
All Other	182	-4%	24%	10%

Businesses lodged 9% more complaints concerning the State Fiscal Service as compared to the previous year.

Companies also filed more appeals with respect to actions of the National Police (+54%) and the Prosecutor's Office (+58%). Notably, these figures have doubled since 2016. On the contrary, the number of complaints against the State Security Service decreased – by 15%.

The Council received more appeals regarding to the Ministry of Justice (+30%), the Ministry of Finance (+64%) and the Ministry of Social Policy (+100%). At the same time, the number of complaints against following state bodies went down: local councils (-26%), the Ministry of Ecology and Natural Resources (-8%) and top state institutions, including the Parliament, the Cabinet of Ministers and the President (-37%).

1.3. Nature of complaints received

(Clause 5.3.1 (a) of Rules of Procedure)

Analysis of complaints received in 2018 demonstrates that Ukrainian businesses most frequently faced the following key problems.

	Number of complaints received in 2018	Change as compared to 2017	Change as compared to 2016	Change as compared to 2015
Tax issues	1097	10%	158%	420%
VAT invoice suspension	575	7%	-	-
Tax inspections	245	60%	192%	330%
Tax criminal cases	63	54%	2%	117%
VAT electronic administration	55	-24%	45%	224%
VAT refund	26	-54%	-65%	-38%
Tax termination of agreement on recognition of electronic reporting	17	-70%	-73%	-26%
Tax termination/renewal/refusal of VAT payers registration	6	-33%	-14%	500%
Tax other	110	43%	11%	162%
Actions of State Regulators	133	-8%	64%	96%
State Service of Ukraine for Geodesy, Cartography and Cadastre (StateGeoCadastre)	9	-44%	50%	200%
State Architectural and Construction Inspectorate (DABI)	8	-58%	100%	167%
National Energy and Utilities Regulatory Commission (NEURC)	7	600%	17%	17%
Antimonopoly Committee (AMCU)	4	-33%	-20%	0%
Other state regulators	105	2%	81%	102%

	Number of complaints received in 2018	Change as compared to 2017	Change as compared to 2016	Change as compared to 2015
National Police Actions	113	53%	232%	414%
National Police procedural abuse	47	47%	194%	370%
National Police inactivity	38	90%	322%	533%
National Police criminal case initiated	9	-36%	29%	800%
National Police corruption allegations	4	100%	300%	-
National Police other	15	150%	1400%	200%
Prosecutor's Office Actions	107	51%	234%	245%
Prosecutor's Office procedural abuse	58	176%	427%	867%
Prosecutor's Office criminal case initiated	24	26%	380%	118%
Prosecutor's Office inactivity	12	-48%	50%	300%
Prosecutor's Office corruption allegations	1	-67%	-	-83%
Prosecutor's Office other	12	140%	50%	140%
Actions of Local Councils/Municipalities	65	-19%	7%	67%
Local councils/municipalities land plots	11	38%	-31%	38%
Local councils/municipalities rules and permits	11	38%	83%	38%
Local councils/municipalities other	43	-33%	10%	87%
Ministry of Justice actions	49	20%	96%	32%
MinJustice registration service	28	56%	133%	56%
MinJustice enforcement service	21	-9%	62%	11%
Legislation drafts/amendments	45	-4%	-38%	2%
Deficiencies in regulatory framework state regulators	17	-19%	325%	55%
Deficiencies in regulatory framework tax	15	7%	0%	400%
Deficiencies in regulatory framework customs	1	-	-	0%
Deficiencies in regulatory framework local councils/municipalities	1	-50%	-95%	-50%
Deficiencies in regulatory framework other	11	10%	-67%	-59%

	Number of complaints received in 2018	Change as compared to 2017	Change as compared to 2016	Change as compared to 2015
Customs issues	41	-23%	-5%	14%
Customs clearance delay/refusal	15	-21%	36%	15%
Customs valuation	9	-18%	-40%	-25%
Customs overpaid customs duties refund	6	-14%	200%	500%
Customs other	11	-31%	-27%	10%
State Security Service Actions	33	-20%	74%	371%
State Security Service procedural abuse	16	-6%	45%	700%
State Security Service criminal case initiated	7	0%	250%	-
State Security Service inactivity	1	-	-	-
State Security Service other	9	-47%	50%	80%
Actions of State-owned companies	18	-25%	-28%	20%
State-owned companies other	18	-25%	-28%	20%

TAX ISSUES

In 2018, the Council received 10% more complaints on tax issues than in 2017, and over 1,5 times more than in 2016. This was mainly driven by an increase of appeals regarding tax inspections and tax invoice suspension.

The half of all tax related issues in 2018 concerned tax invoice suspension. Even though we received 7% more complaints on this issue this year as compared to the previous one, we observed a consistent decrease in the number of such appeals during 2018.

Tax inspections, a pressing issue of Ukrainian companies, amounted to 14% of all appeals

received by the Council in 2018. Moreover, the subject performed an upward trend – 60% more than in 2017, twice as much as than in 2016 and tree times as many as in 2015.

Businesses also lodged more complaints concerning ungrounded tax criminal cases. In 2018, we received 63 appeals on this matter, which is half more in comparison with 2017.

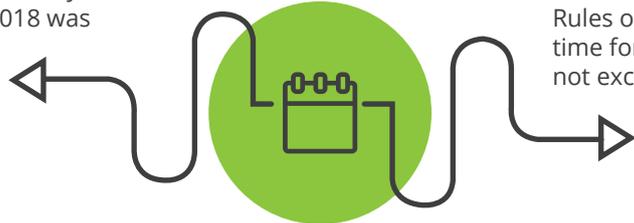
At the same time, the number of appeals regarding other subjects of the tax block decreased. We received much fewer complaints on VAT refund, electronic administration of VAT, termination of agreements and refusal to register VAT payers.

1.4. Timeliness of the preliminary review of complaints

(Clause 5.3.1 (b) of Rules of Procedure)

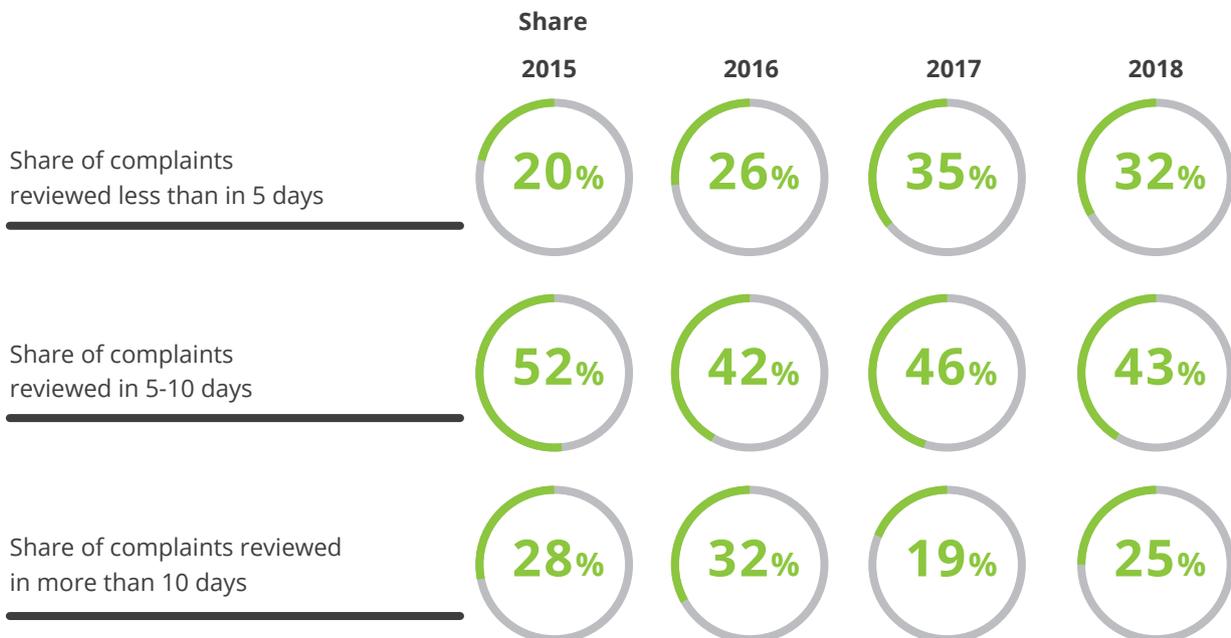
The average time for preliminary review of a complaint in 2018 was

8.3 working days



For reference – according to our Rules of Procedure, the average time for preliminary review should not exceed

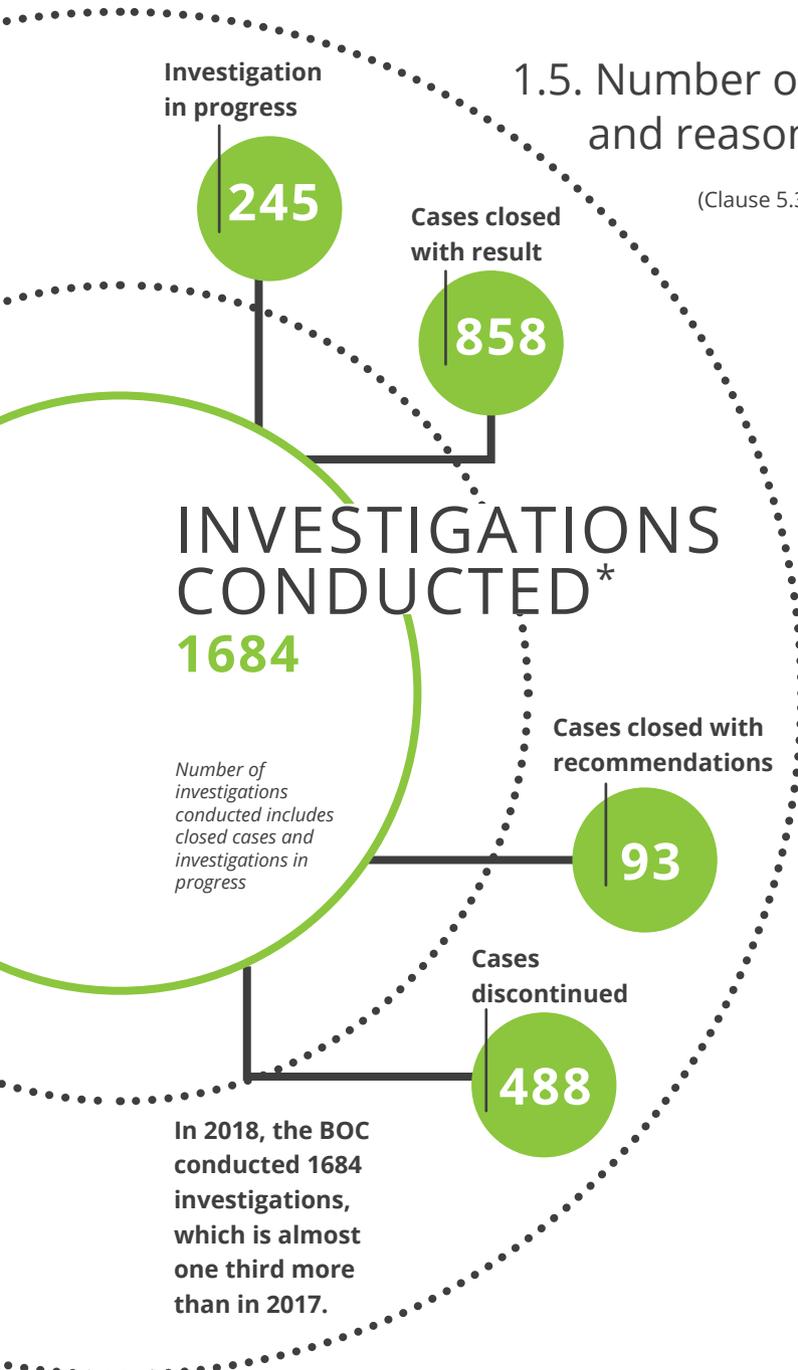
10 working days



Three quarters of appeals from businesses were preliminary processed within 10 days, as envisaged by the BOC regulations.

1.5. Number of investigations conducted and reasons for declining complaints

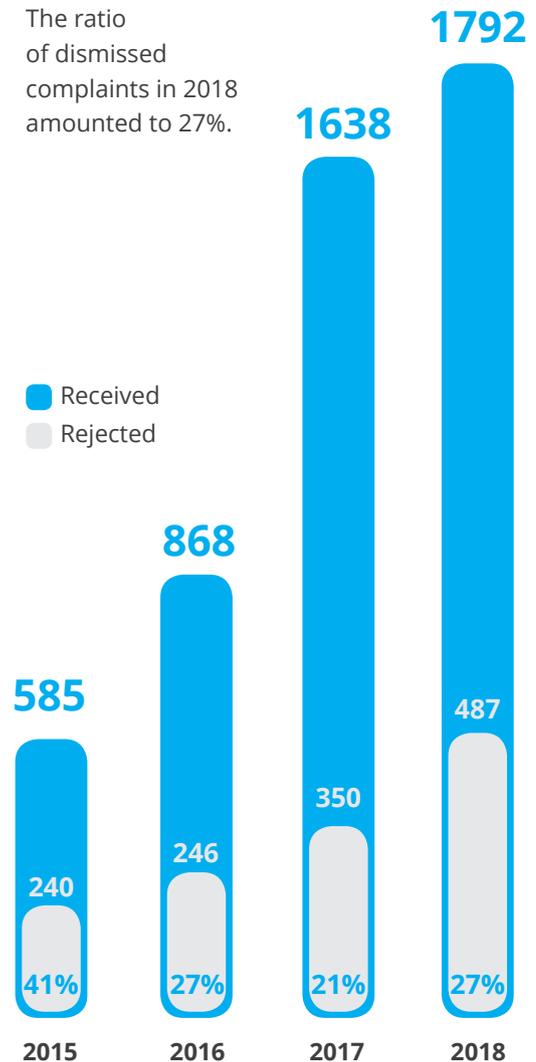
(Clause 5.3.1 (c) of Rules of Procedure)



The most widespread reason (33%) for appeals rejection – they were outside the BOC competence. Active court proceedings (17%), absence of substance (16%) and lack of cooperation on the part of the Complainant (11%) were also typical in the reporting year.

DISMISSED COMPLAINTS

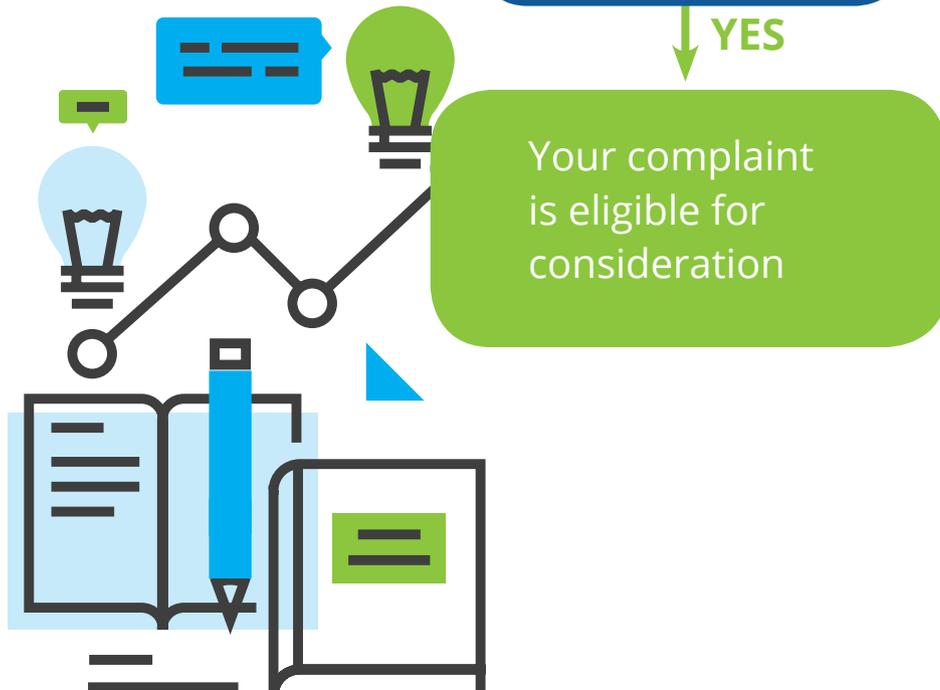
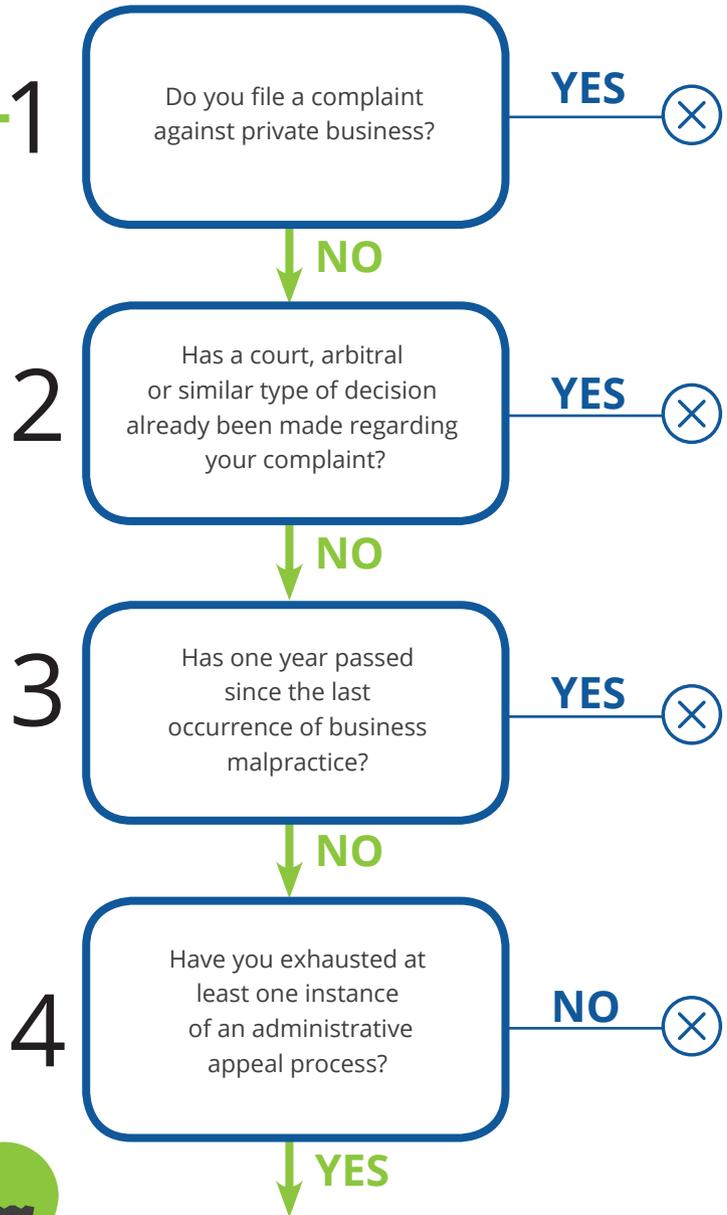
The ratio of dismissed complaints in 2018 amounted to 27%.



TOP-10 REASONS FOR COMPLAINTS DISMISSAL

	2015	2016	2017	2018
Complaints outside Business Ombudsman's competence	44	73	105	162
Complaints subject to any court or arbitral proceedings, or in respect of which a court, arbitral or similar type of decision was made	48	43	70	81
The complaint had no substance, or other agencies or institutions were already investigating such matter	20	11	63	76
In the opinion of the Business Ombudsman, the Complainant did not provide sufficient cooperation	36	29	36	55
The party affected by the alleged business malpractice had not exhausted at least one instance of an administrative appeal process	30	10	13	20
Complaints in connection with the legality and/or validity of any court decisions, judgments and rulings	8	16	15	19
Complaints arising in the context of private-to-private business relations	18	17	17	16
A complaint filed repeatedly	3	1	7	11
Complaints resolved before BOC's actions	3	6	15	10
Investigation by the Business Ombudsman in a similar case is pending or otherwise on-going	1	2	2	5

CHECK IF YOUR COMPLAINT MEETS THE COUNCIL'S CRITERIA:



1.6. Timeliness of conducting investigations

(Clause 5.3.1 (b) of Rules of Procedure)



In the reporting year, the BOC closed

1439

cases

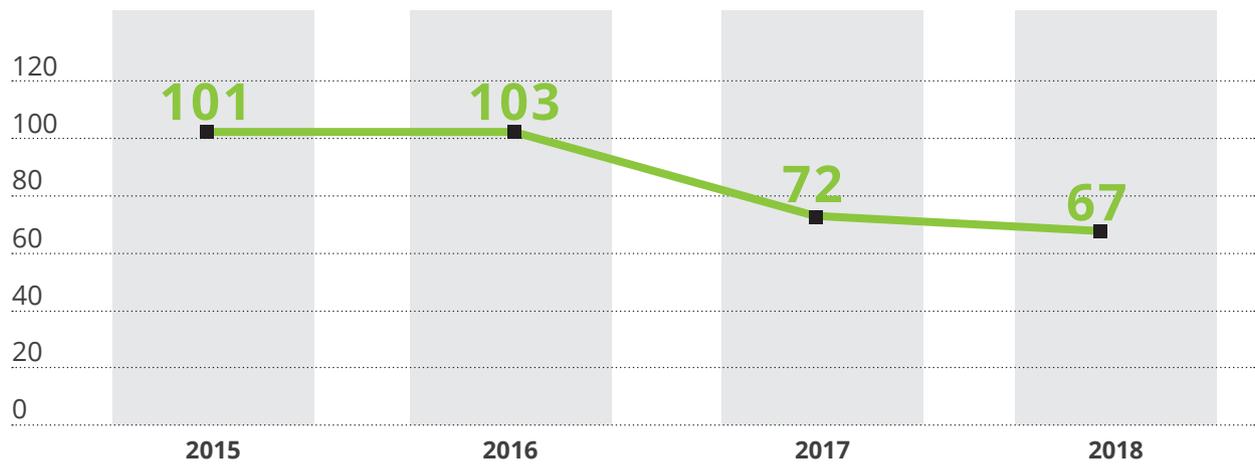


Average time for conducting these 1439 investigations:

67

days

AVERAGE TIME FOR CONDUCTING INVESTIGATIONS IN 2015-2018:

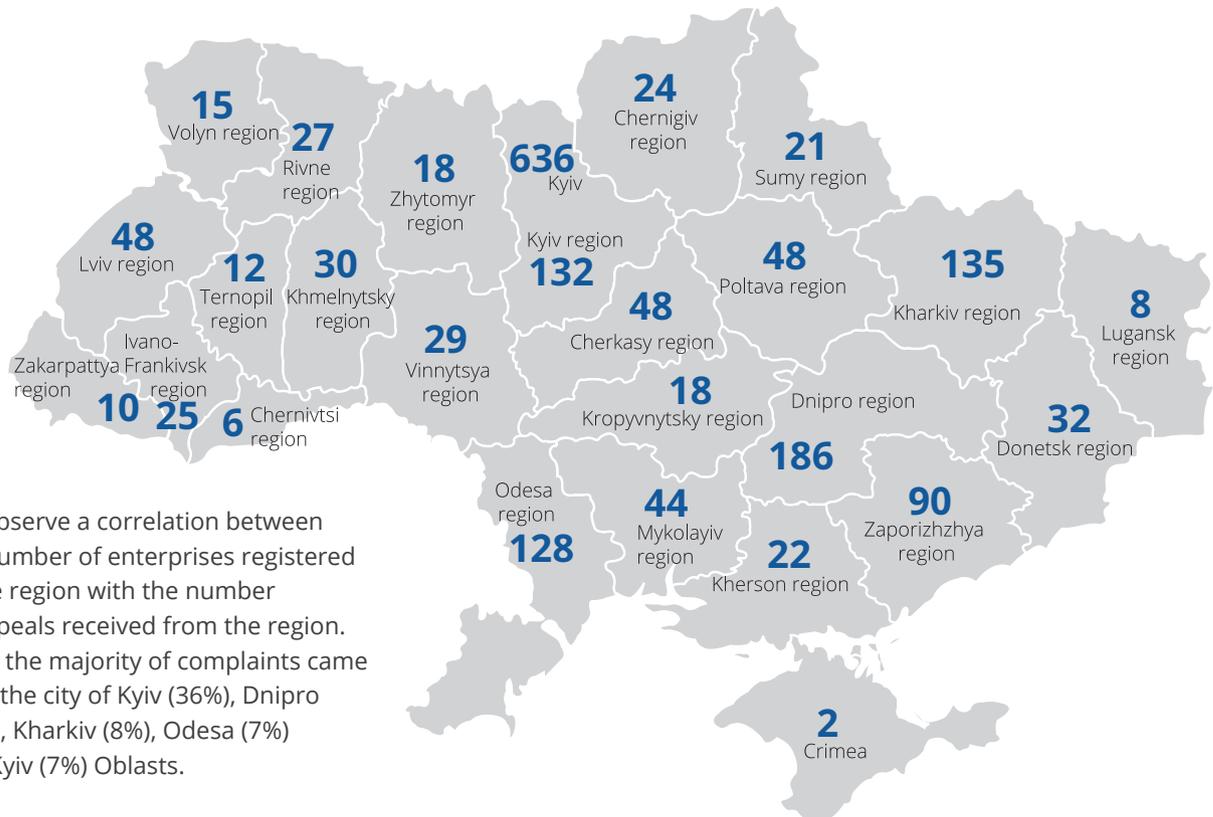


Duration	Share, 2015	Share, 2016	Share, 2017	Share, 2018	Number of cases
5-30 days	3%	2%	23%	20%	289
30-90 days	27%	34%	51%	62%	895
91-120 days	41%	37%	16%	11%	160
121-180 days	27%	20%	7%	5%	67
180+ days	4%	7%	3%	2%	28
Total					1439

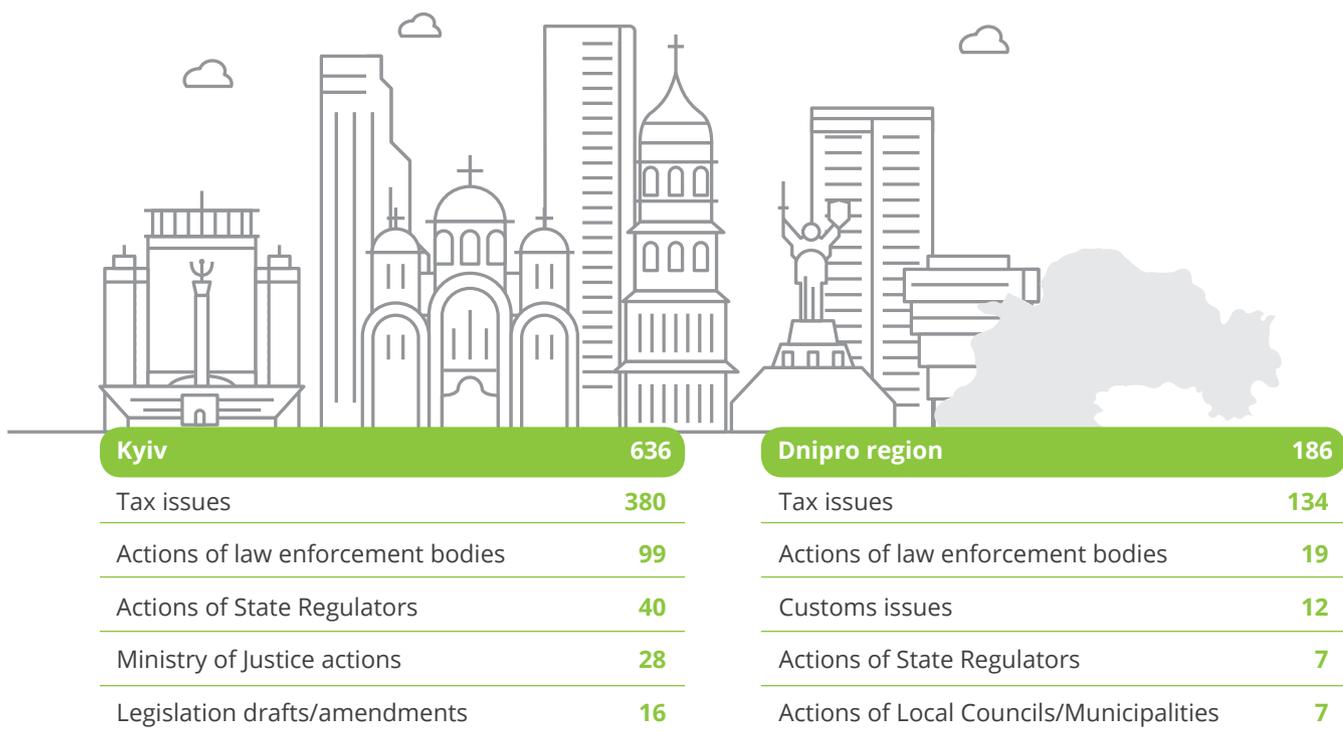
The average duration of investigation in 2018 was 67 days, which is 23 days faster than prescribed in our Rules of Procedure.

The majority of cases (82%) was closed within 90 days. Only 2% of cases took us more than 180 days to investigate.

1.7. Geographical distribution of complaints received



We observe a correlation between the number of enterprises registered in the region with the number of appeals received from the region. Thus, the majority of complaints came from the city of Kyiv (36%), Dnipro (10%), Kharkiv (8%), Odesa (7%) and Kyiv (7%) Oblasts.





Kharkiv region 135

Tax issues	102
Actions of law enforcement bodies	12
Actions of State Regulators	12
Ministry of Justice actions	2
Actions of Local Councils/Municipalities	2



Kyiv region 132

Tax issues	94
Actions of law enforcement bodies	13
Legislation drafts/amendments	5
Actions of State Regulators	4
Customs issues	3



Odesa region 128

Tax issues	72
Actions of law enforcement bodies	18
Actions of Local Councils/Municipalities	10
Actions of State Regulators	8
Customs issues	8



Zaporizhzhia region 90

Tax issues	54
Actions of law enforcement bodies	16
Actions of Local Councils/Municipalities	5
Actions of state companies	3
Actions of State Regulators	3



Cherkasy region 48

Tax issues	20
Actions of State Regulators	12
Actions of law enforcement bodies	9
Ministry of Justice actions	2
Actions of state companies	1



Lviv region 48

Tax issues	30
Actions of law enforcement bodies	7
Actions of State Regulators	5
Permits and licenses	1
Actions of Local Councils/Municipalities	1

Poltava region**48**

Tax issues	26
Actions of law enforcement bodies	10
Actions of State Regulators	7
Legislation drafts/amendments	2
National regulatory agencies	1

Mykolaiv region**44**

Tax issues	30
Actions of Local Councils/Municipalities	4
Actions of State Regulators	3
Customs issues	2
Actions of law enforcement bodies	2

Donetsk region**32**

Tax issues	15
Actions of law enforcement bodies	5
Actions of State Regulators	3
Actions of Local Councils/Municipalities	3
Ministry of Justice actions	2

Khmelnytskyi region**30**

Tax issues	16
Actions of State Regulators	6
Actions of law enforcement bodies	4
Legislation drafts/amendments	2
Actions of Local Councils/Municipalities	1

Vinnysya region**29**

Tax issues	15
Actions of law enforcement bodies	5
Actions of State Regulators	3
Ministry of Justice actions	2
Actions of state companies	1

Rivne region**27**

Tax issues	11
Actions of law enforcement bodies	4
Actions of State Regulators	4
Actions of Local Councils/Municipalities	2
Customs issues	2

Ivano-Frankivsk region**25**

Tax issues	11
Actions of State Regulators	7
Actions of law enforcement bodies	4
Legislation drafts/amendments	2
National regulatory agencies	2

Chernihiv region**24**

Tax issues	14
Actions of law enforcement bodies	3
Actions of Local Councils/Municipalities	2
Actions of State Regulators	2
Legislation drafts/amendments	1

Kherson region**22**

Tax issues	9
Actions of law enforcement bodies	5
Actions of State Regulators	2
Ministry of Justice actions	2
Actions of Local Councils/Municipalities	1

Sumy region**21**

Tax issues	15
Customs issues	3
Actions of law enforcement bodies	2
Actions of State Regulators	1

Kropyvnytsky region**18**

Tax issues	11
Actions of State Regulators	4
Actions of law enforcement bodies	3
National regulatory agencies	1

Zhytomyr region**18**

Tax issues	10
Actions of law enforcement bodies	3
Actions of State Regulators	3
Actions of state companies	1
Permits and licenses	1


Volyn region 15

Tax issues	6
Actions of law enforcement bodies	4
Customs issues	3
Permits and licenses	1
Actions of Local Councils/Municipalities	1


Ternopil region 12

Tax issues	9
Actions of State Regulators	1
Actions of law enforcement bodies	1
Actions of Local Councils/Municipalities	1


Zakarpattia region 10

Tax issues	4
Actions of law enforcement bodies	3
Actions of Local Councils/Municipalities	2
Other	1


Luhansk region 8

Tax issues	7
Actions of Local Councils/Municipalities	1


Chernivtsi region 6

Tax issues	2
Actions of law enforcement bodies	2
Actions of State Regulators	1
Ministry of Justice actions	1

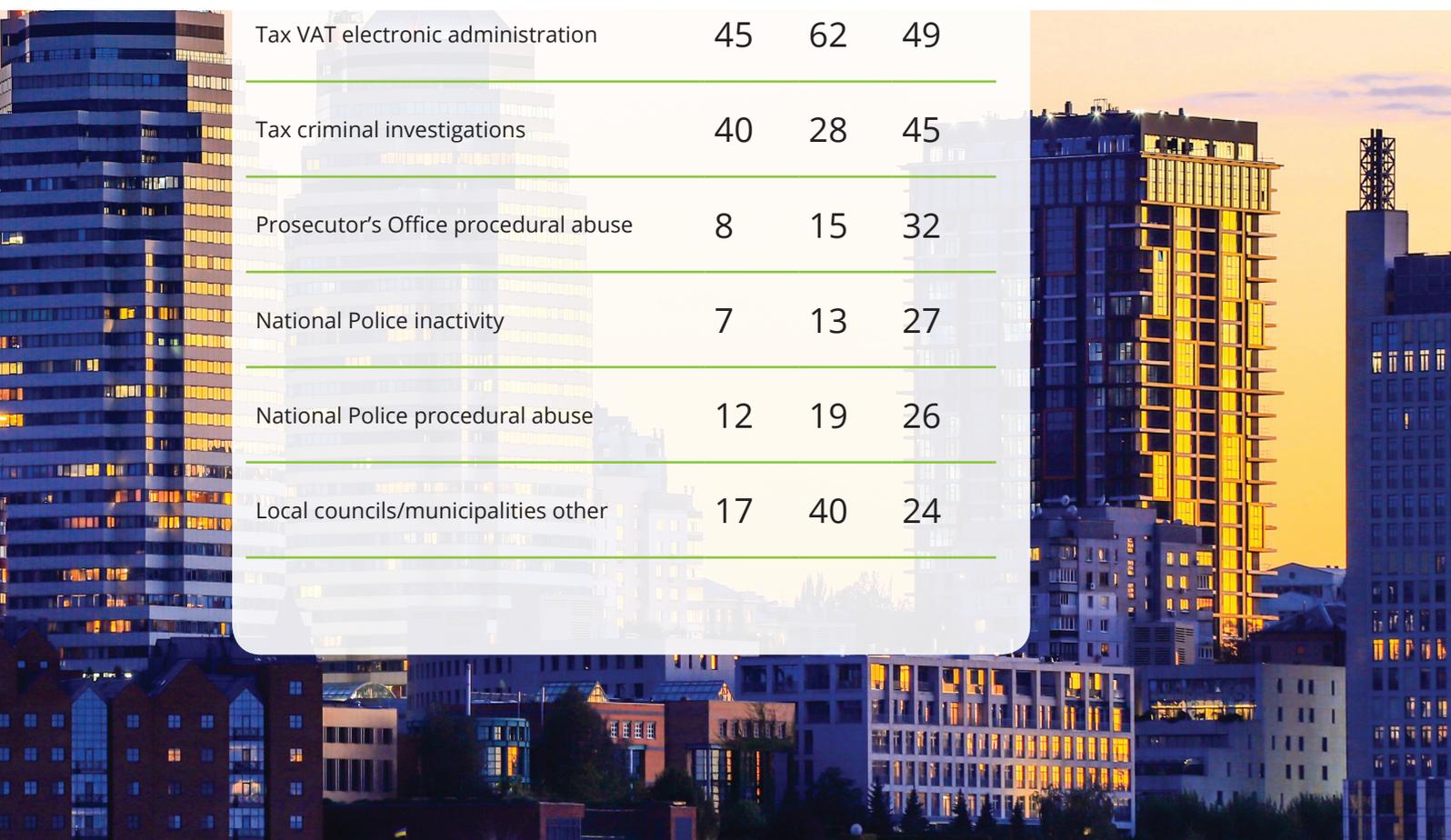


1.8. Financial and non-financial impact

TOP-10 SUBJECT MATTERS OF BOC'S INVESTIGATIONS* IN 2018:

	2016	2017	2018
Tax VAT invoice suspension	0	449	491
Tax inspections	69	135	200
Tax other	65	59	81
Other state regulators	36	69	71
Tax VAT electronic administration	45	62	49
Tax criminal investigations	40	28	45
Prosecutor's Office procedural abuse	8	15	32
National Police inactivity	7	13	27
National Police procedural abuse	12	19	26
Local councils/municipalities other	17	40	24

**Breakdown is based on all investigations undertaken by the BOC. Dismissed complaints and cases that were in preliminary assessment as of 31 December 2018, are not included.*

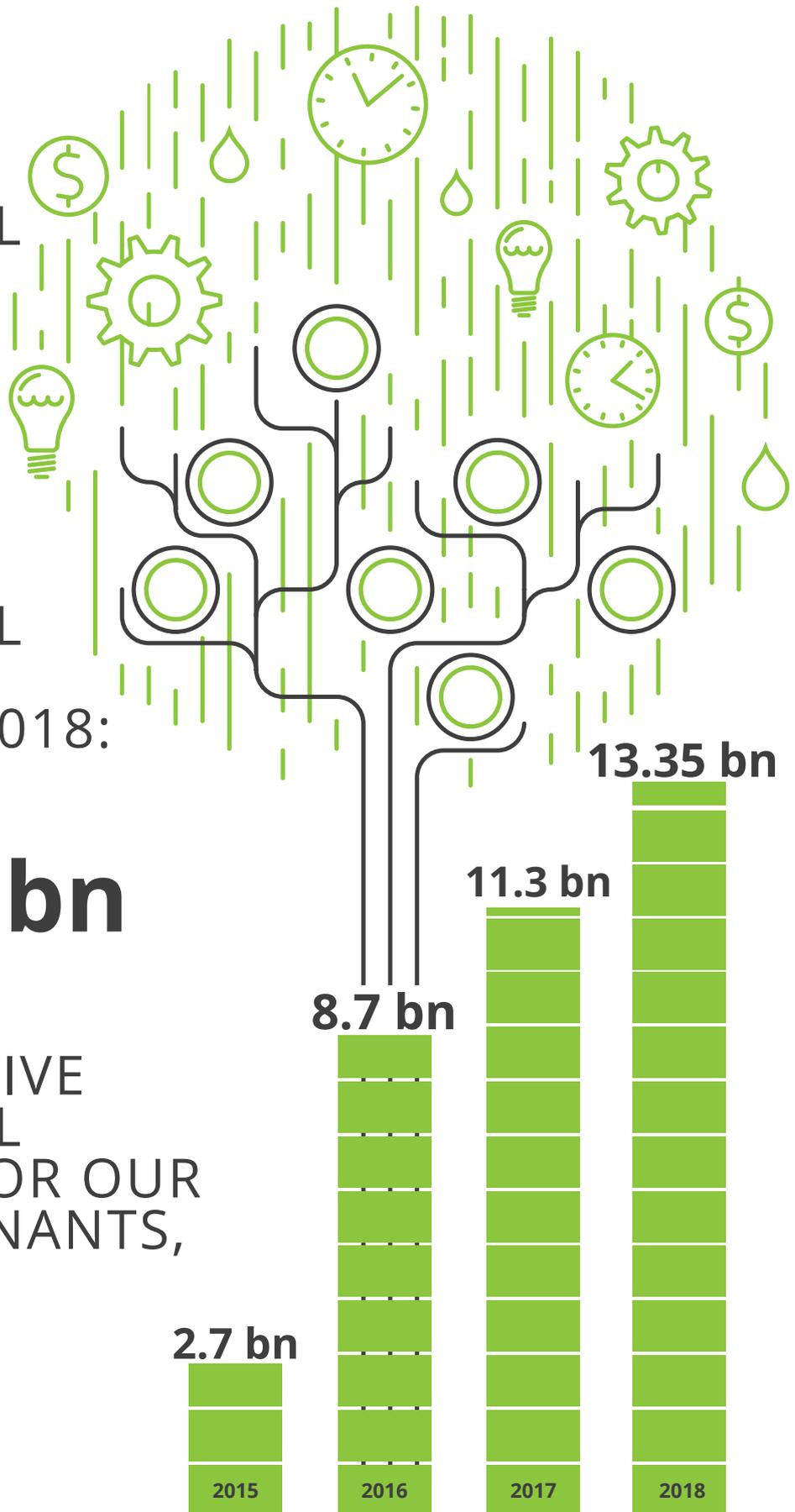


FINANCIAL IMPACT

OVERALL FINANCIAL IMPACT IN 2015-2018:

UAH 13.35 bn

CUMULATIVE FINANCIAL RESULT FOR OUR COMPLAINANTS, UAH



	2015	2016	2017	2018	Grand Total
Tax VAT refund	396.401.395	4.188.649.975	1.456.822.589	51.511.424	6.093.385.383
Tax inspections	114.444.653	885.256.737	909.009.155	1.587.528.030	3.496.238.575
Implementation of systemic recommendations	2.094.325.977	0	0	0	2.094.325.977
Natural Monopolies other	0	643.560.043	0	0	643.560.043
Tax other	7.769.322	16.814.050	117.458.691	109.697.738	251.739.802
Tax VAT invoice suspension	0	0	44.458.762	189.767.982	234.226.744
National regulatory agencies NEURC other	77.082.709	114.699.575	0	0	191.782.284
Tax VAT electronic administration	13.502.600	38.946.909	73.028.446	32.202.104	157.680.059
Other state regulators	12.302	56.088.069	0	53.219.781	109.320.152
Fines cancelled by Courts	0	0	16.771.374	0	16.771.374
MinJustice Enforcement Service	0	2.235.173	12.949.800	497.195	15.682.168
Tax criminal cases	10.705.458	3.666.304	0		14.371.762
Customs other	0	791.344	675.375	7.307.785	8.774.504
Natural Monopolies inactivity/delays	0	7.093.563	0	0	7.093.563
Overpaid customs duties refund	0	80.135	1.251.158	5.650.304	6.981.597
State companies investment/commercial disputes	2.128.801	0	0	0	2.128.801
Customs valuation	0	813.141	440.123	672.000	1.925.264
State companies other	0	0	0	1.710.000	1.710.000
Prosecutor's Office – funds refund	0	0	0	1.408.420	1.408.420
Customs clearance delay/refusal	0	0	571.000	46.553	617.553
State Security Service other	0	0	321.500	0	321.500
ATO budget compensations	0	0	275.135	0	275.135
Local councils/municipalities other – compensation	0	0	101.639	0	101.639
MIA inactivity – debt settlement	0	0	39.171	0	39.171
TOTAL	2.716.373.217	5.958.695.018	2.634.173.919	2.041.219.319	13.350.461.473

In addition to cases closed with financial result, the BOC closed cases with desirable non-financial impact for applicants:

NON-FINANCIAL IMPACT

	2015	2016	2017	2018	Total
Malpractice ceased by complaine	7	36	147	152	342
Tax records reconciled, tax reporting accepted	3	28	65	54	150
Criminal case against the Complainant closed; property/ accounts released from under arrest	4	21	39	36	100
Permit/license/conclusion/registration obtained	10	3	41	27	81
Legislation amended/enacted; procedure improved	3	14	19	17	53
Contract with state body signed/executed	2	13	29	2	46
State official fired/penalized	1	8	13	6	28
Claims and penalties against the Complainant revoked Sanction lifted	2	2	12	2	18
Criminal case initiated against state official/3rd party	2	1	8	4	15

1.9. Complainants' portrait



Wholesale
and Distribution



Manufacturing



Agriculture
and Mining



Real
Estate and
Construction



Individual
Entrepreneur

2015	97	102	32	30	57
2016	178	165	72	62	69
2017	485	243	170	139	100
2018	525	239	185	162	119

Complaints on state bodies malpractice were coming predominantly from wholesalers (29%), manufacturers (13%), agribusiness (10%), real estate (9%), as well as individual entrepreneurs (7%).

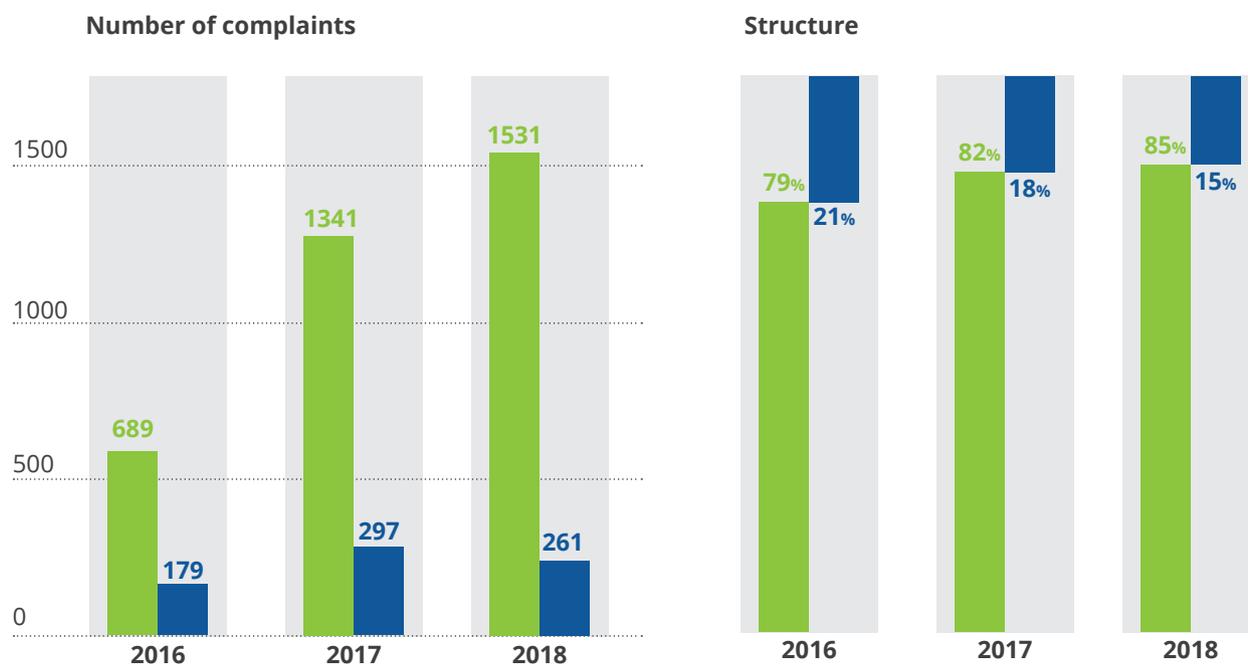
As compared to 2017, the volume of inquiries from all TOP-5 industries went up, except for manufacturers. The highest growth rate has been recorded for real estate and construction sphere: +17% since 2017.

OTHER INDUSTRIES IN 2018 INCLUDED:

Retail	82
Auto transport	39
Physical person	37
Repair and Maintenance Services	25
Energy and Utilities	20
Financial Services	20
Consulting	20
Scientific research and development	18
Public Organizations	18
Warehousing	17
Telecommunications	17
Farming	16
Electric installation works	14
Supply of electricity, gas, hot water, steam and air conditioning	13
Engineering, geology and geodesy areas activity	12
Health, Pharmaceuticals, and Biotech	12
Processing Industry	10
Education	10
Transportation and Storage	9
Activity in the field of law	9
Activities in the field of culture and sports, recreation and entertainment	8
Waste collection and disposal	8
Private security firms activity	8
Other	8
Fishing services	7
Restaurant business	7
Business services	7
Advertising	7
Forestry and logging	6

Banks	6
Insurance	6
Oil and Gas	6
Ground and pipeline transport	5
Hire, rental and leasing	5
Delivery services	5
Publishing and printing services	4
Software and Internet	4
Computer and electronics	4
Maintenance of buildings and territories	4
Technical testing and research	4
IT companies	3
Printing and reproduction activity	3
Activities in the field of employment	2
Consumer services	2
Notary services	2
Activity in the field of architecture	1
State Enterprise	1
Building of ships and floating structures	1
Accommodation services	1
Conferences and trade exhibitions organizing	1
Activities in the field of broadcasting	1
Metallurgical production	1
Air transport	1
Economic and commercial activity	1
Funds management	1
Freight maritime transport	1
Public administration	1
Cleaning services	1

LOCAL VS FOREIGN COMPLAINANTS



Traditionally, Ukrainian companies filed the majority of complaints. In 2018, we received 12% fewer complaints from foreign businesses, but 14% more from local ones, than in 2017. Moreover, we observed a +3pp year to year increase of local companies in the general structure of appeals.

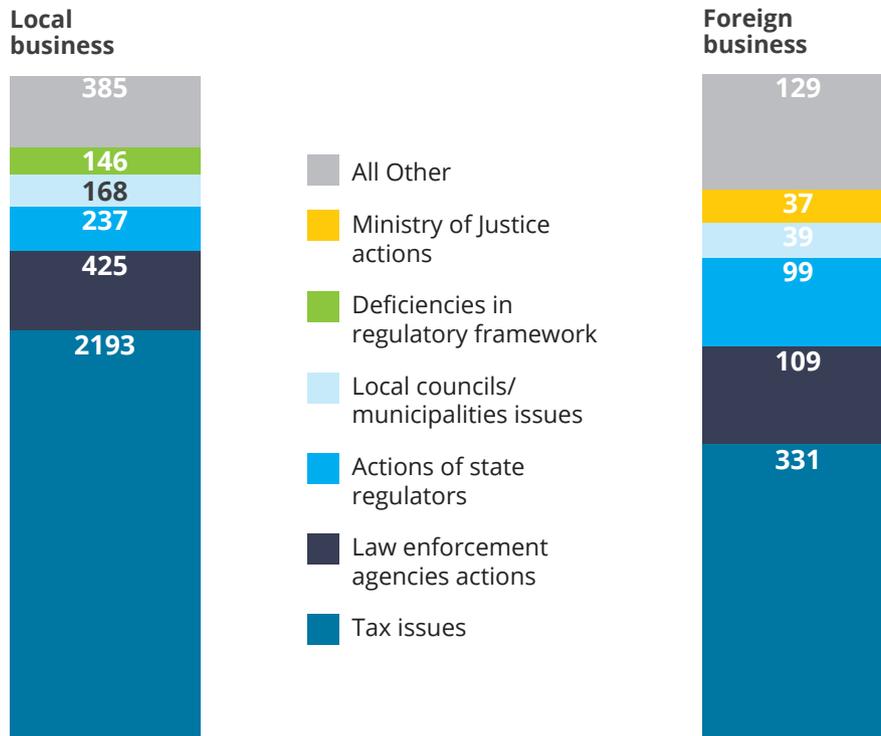
TOP-5 subjects of complaints received from local and foreign companies, 2018 vs 2017

Local companies	2018	2017 % change
Tax issues	971	9%
Actions of law enforcers	204	38%
Actions of state regulators	108	20%
Actions of local councils	55	-5%
Deficiencies in regulatory framework	39	-3%
Other	154	38%

Foreign companies	2018	2017 % change
Tax issues	126	15%
Actions of law enforcers	49	20%
Actions of state regulators	25	-55%
Ministry of Justice actions	11	-42%
Actions of local councils	10	-55%
Other	40	-23%

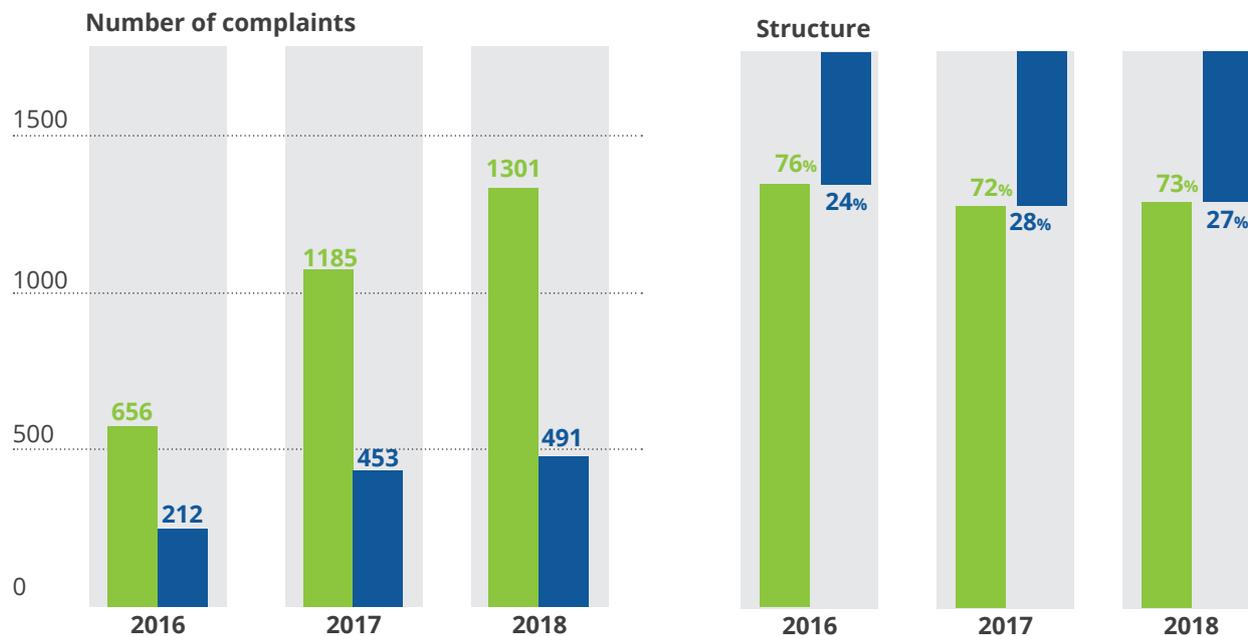
In 2018, we received more complaints regarding tax issues from both local and foreign companies: +9% and 15% respectively. Ukrainian and foreign businesses also lodged more appeals regarding actions of law enforcement bodies. With respect to state regulators the situation wasn't similar – while the number of appeals increased from Ukrainian businesses (+20%), it significantly decreased from foreign ones (-55%).

TOP-5 SUBJECTS OF COMPLAINTS: BREAKDOWN BY ORIGIN OF COMPLAINTS (2016-2018)



The share of complaints on tax issues is much higher among local companies than foreign ones – 62% vs 42%. At the same time, share of appeals submitted by foreign businesses is 4pp higher as for law enforcers and 6 pp as for state regulators. A distinguishing feature is that the Ministry of Justice’s actions hit the TOP-5 of foreign companies, while appeals on deficiencies in regulatory framework – the TOP-5 of local ones.

SIZE OF BUSINESSES



Traditionally, Ukrainian companies filed the majority of complaints. Moreover, we observed a +3pp year to year increase of local companies in the general structure of appeals.

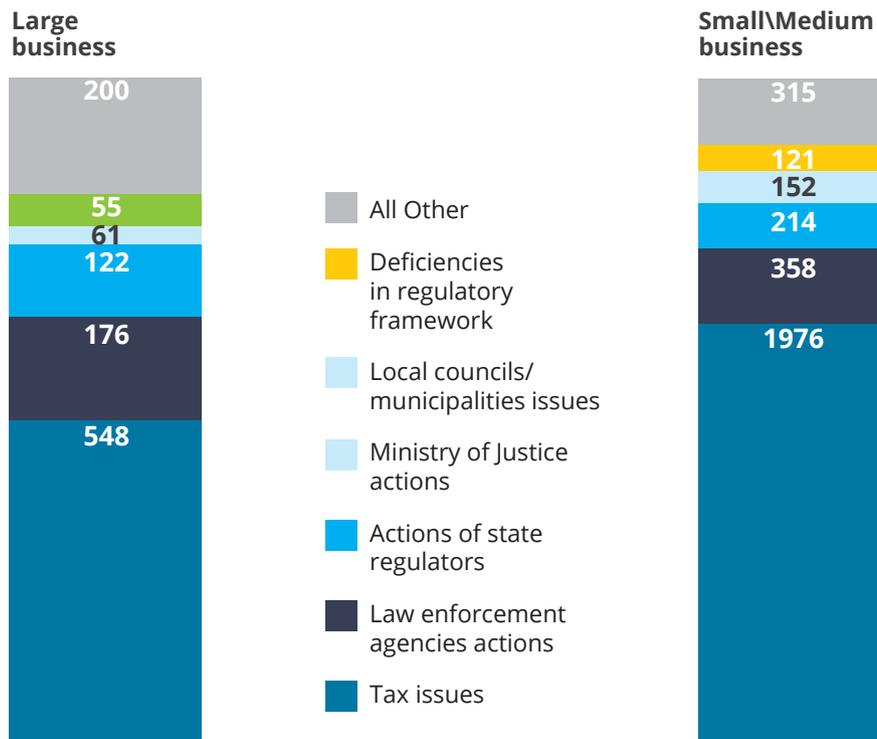
TOP-5 subjects of complaints received from large and small/medium companies, 2018 vs 2017

Large business	2018	2017 % change
Tax issues	245	24%
Actions of law enforcers	86	26%
Actions of state regulators	42	-32%
Ministry of Justice actions	27	23%
Actions of local councils	20	-33%
Other	72	-1%

Small\Medium business	2018	2017 % change
Tax issues	852	6%
Actions of law enforcers	167	38%
Actions of state regulators	91	10%
Actions of local councils	45	-10%
Deficiencies in regulatory framework	28	-15%
Other	117	23%

While the trend of received complaints on tax issues was upward for both large and small/medium companies, the increase as compared to 2017 was much higher for large companies (+24%), than for SMEs (+6%). Both large and small/medium companies lodged more appeals concerning actions of law enforcers: +26% and +38% respectively. Large companies submitted one third fewer complaints concerning actions of state regulators, while SMEs – 10% more.

TOP-5 SUBJECTS OF COMPLAINTS: BREAKDOWN BY SIZE OF BUSINESS (2016-2018)



Tax issues amount to 63% of appeals in the portfolio of SMEs, while only 47% in the one of large companies. At the same time, the share of complaints against law enforcers and state regulators is higher as for large enterprises. The Ministry of Justice, apparently, posed more problems to large companies, since appeals on them (2/3 re enforcement service and 1/3 re registration one) hit the forth position in their TOP-5. Meanwhile suggestions on drafting legislation was more common for SMEs.

2

SUMMARY OF KEY MATTERS

AND RESULTS OF IMPORTANT
INVESTIGATIONS



TAX ISSUES

646 Cases closed with result35 Cases closed with recommendations365 Cases discontinued

Subject	Case closed with result	Case closed with recommendations	Case discontinued	2018 Total
Tax VAT invoice suspension	469	3	171	643
Tax inspections	64	1	124	189
Tax other	38	7	22	67
Tax VAT electronic administration	37	8	19	64
Tax criminal cases	21	4	12	37
VAT refund	9	10	6	25
Tax termination of agreement on recognition of electronic reporting	5	0	10	15
Tax termination/renewal/refusal of VAT payers registration	3	2	1	6



Thank you for your work, support and transparency in doing business in the country.

Vladyslav Kolodyazhny
Director of Gaztron-Ukraine LLC

Subject: VAT Tax invoices suspension**SFS registers farm product distributor's VAT invoices worth over UAH 4mn****Subject of Complaint:**

State Fiscal Service of Ukraine (SFS)

Complaint in brief:

On December 1, 2017, a Kyiv-based distributor of agricultural products appealed to the BOC with a complaint against the SFS, which had suspended the registration of company's VAT tax invoices worth over UAH 4mn.

According to the Complainant, an exhaustive package of documents had been submitted for the registration of VAT tax invoices. However, the SFS would not accept them and gave no explanation. The company tried to resolve the situation on its own. It sent additional documents confirming the veracity of its operations and explained the specifics of reselling raw materials. But this did not help to register tax invoices.

Actions taken:

Having examined the circumstances of the case, the BOC investigator wrote a letter to the SFS requesting it to consider the company's complaint regarding the registration of tax invoices.

Result achieved:

On January 16, 2018, the Complainant informed the Council that the situation had been resolved and the registration of tax invoices had gone ahead. The case was closed successfully.

Subject: Tax inspections**SFS cancels taxes and penalties for UAH 630 mn additionally charged for a machine-building plant****Subject of complaint:**

State Fiscal service (SFS), Large Taxpayers Office (LTO)

Complaint in brief:

On 30 March 2018, a leading Ukrainian machine-building company approached the BOC because it did not agree with additional taxes and fines charged by the SFS worth UAH 630 mn.

In early March, the LTO conducted a tax audit of the company, based on which the SFS increased the Complainant's profit tax liability on assets by almost UAH 300 mn and charged a penalty of UAH 285 mn for violating foreign economic activity payment procedure. In addition, the factory had to pay more VAT and profit tax.

In late March, the company challenged the tax audit results and appealed to the BOC.

SFS drops over UAH 2 mn additionally charged to “Dobrobut Dytynstvo” * children’s hospital

Subject of complaint:

The State Fiscal Service (SFS), General Directorate of the SFS in Kyiv (GD SFS)

** Here and further in the report the Complainant kindly agreed to disclose his name for communication purposes*

Actions taken:

Having studied case materials, the BOC investigator sent a letter to the SFS. He presented a legal position of the Council and asked the tax authority to consider the Complainant’s arguments. The investigator also participated in the hearing of the Complainant’s case at the SFS.

Result achieved:

With the involvement of the Council, on 25 May the SFS cancelled taxes and penalties for UAH 630 mn, which were additionally charged for the plant, but left in force the additionally accrued corporate income tax liability for UAH 17 mn, which the company plans to appeal in court.

Complaint in brief:

On August 2, 2018, a children’s medical center “Dobrobut- Dytynstvo” appealed to the Council. The Complainant disagreed with the tax audit conclusions regarding additional payments worth about UAH 3 mn in taxes and fines.

In May, the SFS audited company’s compliance with the tax, currency legislation and social insurance payment.

One should mention methods the SFS exploits when identifying tax obligations. The fiscal body assumed that the children’s hospital transferred 4/5 of the call centre maintenance cost to other hospitals of the network. In this way the SFS calculated taxes, which these hospitals should have paid if they had maintained separate call-centres. It amounted to over UAH 1 mn of VAT.

The company insisted that the SFS competence did not include choosing the optimal business model for the enterprise. Moreover, it is wrong to calculate additional taxes based on the above-stated unconfirmed assumptions. In addition, according to the auditors, the debt of suspended individual entrepreneurs to the Complainant should have become uncollectable.

Disagreeing with such conclusions, the medical center appealed them in the SFS and turned to the Council for help.

Subject: VAT refund

SFS refunds VAT UAH 200k to a Ukrainian subsidiary of the world computer corporation

Subject of complaint: State Fiscal Service (SFS)

Actions taken:

Having studied case materials, the Council's investigator prepared arguments in favor of the company. He pointed out there was no proper evidence of the contact center maintenance, and, accordingly, the cost of leasing and operation of premises, as well as the fact that, as a result of business activity termination by an individual (entering a record of termination in the USR), his obligations under concluded contracts were not terminated, but remained with him/her as an individual.

Result achieved:

The SFS accepted the Council's arguments and dropped over two thirds of additional payments. The case was closed successfully.

Complaint in brief:

On June 9, 2018, a Ukrainian subsidiary of the world computer corporation appealed to the Council. The Complainant could not get a budget VAT refund.

In mid-April, the company appealed to the SFS for a refund of VAT UAH 1 mn. However, as of early June, the tax authority ignored its appeal. So, the company lodged a complaint with the General Directorate of the SFS in Kyiv (GD SFS) and turned to the Council for help.

Actions taken:

Having examined case materials, the Council supported the Complainant's position. The Council's investigator asked the GD SFS in Kyiv in writing to check the reasons for delay and eliminate them. The tax authority replied that there was a positive balance in the system of electronic administration (SEA) – only UAH 200k. As it turned out, the company used a part of money from its account in the SEA VAT but, due to a technical error, the amount of about one million hryvnias continued to be displayed in the system.

At the trilateral meeting the company agreed to claim for only UAH 200k of the refund and, consequently, filed a new application for the VAT refund.

Result achieved:

The tax authority considered the Complainant's appeal. The company received the VAT refund of UAH 200k. The case was closed successfully.

Subject: VAT electronic administration

LTO reduces penalty fee worth over UAH 4.5 mn to PEUGEOT CITROEN Ukraine

Subject of complaint:
State Fiscal Service, Large Taxpayers' Office (LTO)

Complaint in brief:

On July 10, 2018, an official French car importer appealed to the Council. The Complainant disagreed with the amount of a charged penalty fee.

In January 2018, a District Administrative Court of Kyiv cancelled the decision of the LTO regarding adding taxes to the Complainant's bill in the amount of about UAH 3 mn. The tax authority issued new tax notifications-decisions for the rest of amounts. The Company promptly paid the amounts specified in the tax notifications-decisions.

However, in a few months, the Complainant discovered there appeared a record of a penalty fee charge in his electronic office totally worth over UAH 5 mn. The fine related to old tax periods starting from June 2011.

Actions taken:

Having examined case materials, the Council's investigator met with the Complainant's and LTO representatives. The Complainant and the Council proved illegality of the charged penalty fee.

Result achieved:

With the assistance of the Council, the parties agreed to reduce the additionally charged amount up to UAH 656k. This allowed the company not to pay the illegally charged penalty fee in the amount of over UAH 4.5 mn. The case was successfully closed.

Subject: Tax termination/renewal/refusal of VAT payers registration

Alternative energy firm renews VAT payer certificate

Subject of complaint:
State Fiscal Service (SFS), Zaliznychnyy United State Tax Inspectorate under the Lviv Oblast SFS (County USTI)

Complaint in brief:

On March 2, 2018, a Lviv company specializing in alternative energy turned to the BOC because it had been unable to renew its VAT payer registration for over two years.

The County USTI terminated its contract with the company, allegedly because it could not find the firm at the place of registration. After the Lviv Administrative Court ruled in favor of the Complainant, declared the SFS decision void, and ordered that the VAT payer registration be renewed. However, the County USTI delayed

the restoration of the company's tax status. The Complainant repeatedly addressed it but was simply redirected to the national SFS office, which also failed to comply with the court decision. Meanwhile, the company's activities were paralyzed and it could not get a tax credit.

Actions taken:

Having studied the circumstances of the case in detail, the BOC investigator addressed the SFS in writing, requesting that the agency comply with the court decision and renew the Complainant's registration as a VAT payer.

Result achieved:

Based on the Council's appeal, on April 3, the Complainant reported that its VAT payer registration had finally been renewed. The case was successfully closed.

Subject: Tax criminal cases

#MaskShowStop law in action: example from Luhansk Oblast

Subject of complaint:
Investigative Department of Financial Investigations of the SFS in Luhansk Oblast (Tax Police)

Complaint in brief:

On April 26, 2018, the Interdepartmental Commission for Ensuring Rights and Legal Interests of Citizens by Law Enforcement Agencies (Commission) sent the BOC a complaint from Luhansk-based company regarding Tax Police abuses.

In the autumn of 2016, the Tax Police conducted a search of the company. As a result, law enforcers withdrew the Complainant's laptops and hard disk drives. Repeated appeals to the investigator and prosecutor resulted in run-around replies or were completely ignored. For almost two years, the Complainant could not get its property back that significantly hindered its economic activity.

However, with the adoption of the # MaskShowStop law the company had the opportunity to appeal against refusal to comply with investigation reasonable time frame. That was the reason why it appealed to the Commission dealing with such issues.

Actions taken:

The Council's investigator asked the General Directorate of the SFS and the Prosecutor's Office of Luhansk Oblast in writing to check

the time frame of conduct of pre-trial investigation. He also stressed all withdrawn computer equipment and documents had to be returned to the Complainant.

Result achieved:

On June 20, criminal proceedings against the company were closed. On July 17, the seized property was returned to the Complainant.

Subject: Tax other

**Resolved in one day:
successful case of Kryvyi
Rih company**

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

Complaint in brief:

On August 16, 2018, Kryvyi Rih metal trading company turned to the Council. The Complainant could not register tax invoices due to inactivity of the SFS.

In late July, the SFS audited the company's activities. According to the audit conclusions, the tax authority initiated freezing of the Complainant's VAT limits – the amount for which it could register tax invoices for counterparties. It appears that the mentioned was introduced as an enforcement measure under the criminal proceeding. According to the company, it stopped its activities and threatened its reputation among its partners.

Disagreeing with these conclusions, the company appealed the VAT limits arrest in court. The court agreed that there were no grounds for freezing the limits and ordered the SFS to unfreeze them.

However, the fiscal service delayed with unblocking limits as well as the VAT settlement account, while numerous Complainant's appeals to the hotline and the SFS remained unanswered.

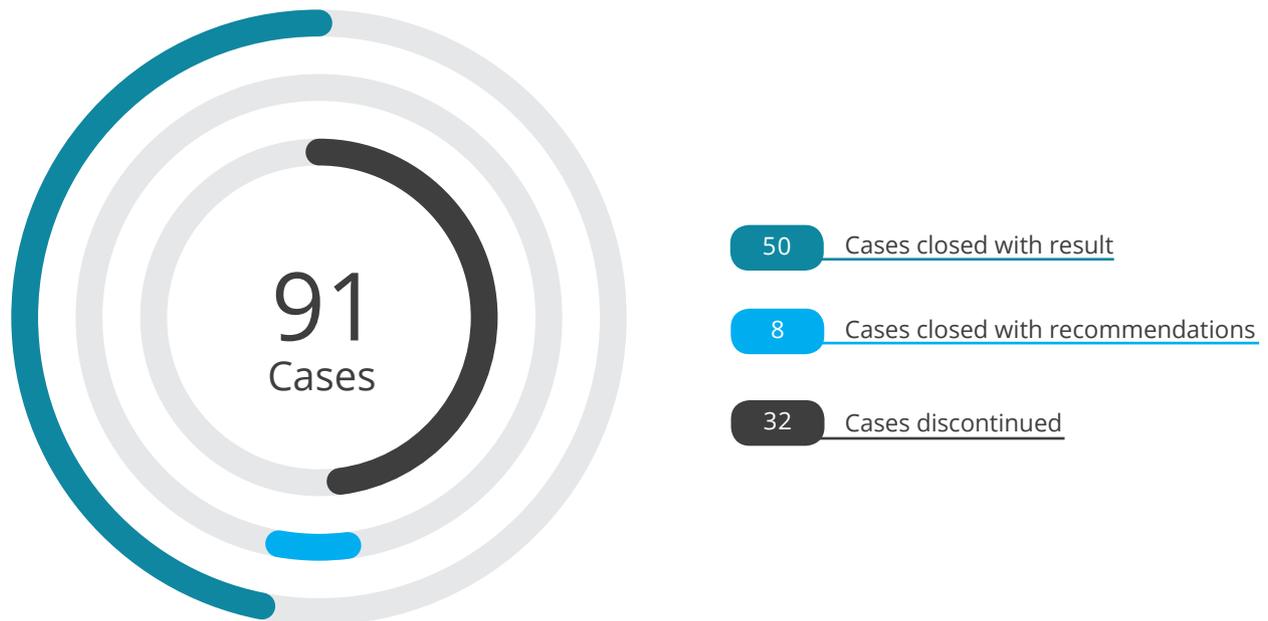
Actions taken:

The Council's investigator brought up the complaint for the SFS Working Group consideration on the day of its receipt. She stressed that the court resolution should be promptly implemented and also prepared a corresponding written request to the Head of the SFS.

Result achieved:

With the assistance of the Council, the tax authority unblocked the Complainant's VAT limits right the next day. The company was able to perform its activity again. The case was closed successfully.

ACTIONS OF STATE REGULATORS



Subject	Case closed with result	Case closed with recommendations	Case discontinued	2018 Total
Other state regulators	37	7	24	68
Other state regulators StateGeoCadastre	9	2	4	15
Other state regulators DABI	4	0	3	7
Other state regulators AMCU	0	0	1	1

We express you deep respect and our gratitude for protecting interests of business in Ukraine

Renato Ruschik

General Director of State Enterprise Lactalis-Ukraine

Subject: StateGeoCadastre**Kolomyia brick and tile maker gets special permits for deposit development**

Subject of complaint:
State Geology and Subsoil Service of Ukraine (GeoCadastre)

Complaint in brief:

On February 18, 2018, Kolomyia Plant Management Board for Building Materials, a manufacturer of bricks and tiles from Ivano-Frankivsk Oblast, turned to the BOC for a second time. The company had been unable to obtain permits to develop clay deposits due to inaction at GeoCadastre.

In October 2017, the BOC helped the Complainant to amend special permits for subsoil use. These orders from GeoCadastre were published on the agency's official website. But even though the Complainant paid the necessary fees and submitted all documents, GeoCadastre kept delaying the issue of already agreed special permits for three months.

Further delays jeopardized the Complainant's commercial activity.

Actions taken:

On March 1, the BOC investigator and a representative of the Complainant met with the director of the GeoCadastre. That day, the Complainant's representative obtained the duly approved special permits with all the supporting documentation.

Result achieved:

With the BOC's assistance company obtained all the approved special permits for the exploitation of deposits. The case was closed.

Subject: DABI**The issue pending DABI registration for two years gets resolved in one day**

Subject of complaint:
The State Architectural and Construction Inspection of Ukraine (DABI)

Complaint in brief:

On July 11, 2018, a developer company from Odesa region turned to the Council. For over two years, DABI refused to register a ready-to-use facility.

In 2016, the Complainant built a parking lot for the sale of building materials. He turned to DABI to register the facility. The inspection found errors in the application and refused the registration. The Complainant corrected them and re-submitted the documents. DABI refused for a second time.

Considering the refusal to be groundless, the company appealed to Odesa Administrative Court. The Court ruled in favor of the Complainant. However, this did not affect DABI – the state agency still did not register the parking lot.

At the same time the company was suffering losses. One could not reimburse building costs because the facility did not work. In addition, it was necessary to pay for the lease of the territory. When it seemed that it was impossible to defend its legal rights, the company lodged a complaint on the BOC website.

Actions taken:

Having promptly examined the merits of the case, on July 12, the Council's investigator called DABI. In particular, he stressed the importance of the court decision enforcement, which came into force.

Result achieved:

Following the conversation, the facility was registered. The case, which remained unresolved for over two years, was solved by the investigator just in one day.

Subject: AMCU

BOC contributes to protection of economic competition

Subject of complaint:

Kyiv Regional Department of the Antimonopoly Committee of Ukraine (AMCU)

Complaint in brief:

An equipment supplier turned to the Council with a complaint regarding actions of the Antimonopoly Committee.

The Antimonopoly Committee delayed the consideration of the company's complaint regarding violation of legislation on protection of economic competition.

The complainant participated in the "Prozorro" tender for equipment supply for Ukrzaliznytsia. Apart from it, several companies submitted bids for tender, in which the Complainant noticed some not accidentally similar things. For example, identical product description and warranty letters texts, bank guarantees issued on the same date. There was even a document submitted by various participants, the author of which was the same person. Given such facts proving anti-competitive coordinated actions, the Complainant applied with a statement to the AMCU. However, the government agency dragged on its consideration and opening a case on violation of legislation on protection of economic competition.

Actions taken:

The Council's investigator examined the complaint documents and upheld the company's position. He applied to AMCU in writing and asked to make a decision regarding the appeal of the company – to start considering the case or refuse to in accordance with the rules of consideration of applications on violation of economic competition.

Result achieved:

The AMCU accepted the Council's arguments and started considering the case on anti-competitive coordinated actions related to tender results distortion. So, the AMCU conducted an investigation and found signs of violation of the law, and, accordingly, began considering the case on violating legislation on protection of economic competition. The Complainant thanked the Council for assistance. The case was closed.

Subject: Other State Regulators

Derzhstat finally pays UAH 30mn debt for IT services rendered in 2012

Subject of complaint:
State Treasury Service (Treasury), the State Statistics Service (Derzhstat)

Complaint in brief:

On April 21, 2017, an IT company addressed the BOC. For five years, the Complainant could not recover a debt from the state budget worth almost UAH 30mn.

In 2012, the IT company had installed equipment to conduct a census at the request of Derzhstat. The cost of these services was almost UAH 30mn. However, after the work was completed, it turned out that Derzhstat could not pay the provider. In the summer of 2013, the Commercial Court of Kyiv confirmed the debt to the Complainant and ruled that it be paid. The Treasury was mandated to pay this amount to the company.

The procedure for state guaranteed payments is complicated: all payments are divided into three groups by type. Queues are formed within each group according to the date of the related court decision. The Treasury's debt was commercial, so it belonged to the third group. Every year, the State Tax Administration allocates a certain amount from the budget to repay such debts. If the applicant's turn doesn't come in a given year, the obligation is shifted to the next year.

The Complainant patiently waited for five years, regularly monitoring the Treasury website and checking the status of the queue. In early 2017, the company had real grounds to expect compensation. Payment amounts approved by the budget of 2017 covered the company's expenses and other applicants who were ahead in the queue. That was confirmed by the information published on the Treasury website. Finally, in March 2017, the company received funds from the Treasury on its account. But, much to the Complainant's shock, only 3% of the total debt had been paid.

As the BOC found out, the payment order on the Treasury website was displayed incorrectly. In fact, the amount of arrears was three times as much as the budgeted amount of payments, making it unlikely that the Complainant would receive compensation in 2017.

Actions taken:

The BOC investigator appealed to the Ministry of Finance with a request to repay the debt to the company in 2018. In addition, he initiated a correction of the systemic error on the Treasury website, noting that information on the status and order of payments on the official website needed to be accurate and up-to-date.

Result achieved:

With the assistance of the Council, after nearly 6 years of unsuccessful efforts, the Complainant received the full arrears from Derzhstat in March 2018. The Treasury also corrected its systemic error and settlements on debts guaranteed by the state are now correctly displayed on its web portal.

ACTIONS OF NATIONAL POLICE



Subject	Case closed with result	Case closed with recommendations	Case discontinued	2018 Total
National Police inactivity	14	6	4	24
National Police procedural abuse	8	2	12	22
National Police other	5	2	2	9
National Police criminal case initiated	4	0	2	6
National Police corruption allegations	2	0	2	4

Subject: National Police procedural abuse

**Law enforcers return
200 tons of fish to a fishing
company**

Subject of complaint:
Investigation Department
of the National Police
in Zaporozhzhia Oblast
(Investigation Department)

Complaint in brief:

On August 6, 2018 a fishing company applied to the Council with a complaint challenging inactivity of the National Police Investigation Department. The law enforcers did not return 200 tons of frozen fish seized during a search to the Complainant.

In early July, the district court allowed to conduct a company's search. As a result, law enforcement officers withdrew documents specified in the court ruling. They had also seized 200 tons of frozen fish worth UAH 3 mln. The court did not give its permission for. In addition, transportation of seized fish was carried out with violations – prior to the end of the search and protocols registration.

The Court of Appeal canceled the arrest of property, after that it should have immediately been returned to the company. The Complainant applied to the Investigative Department for the return of products three times but to no avail. The investigator avoided executing a court order in every possible way. As of August 6, the fish hadn't been returned, and the company was unaware of its storage conditions. Hoping to return the product on time and in a saleable condition, the Complainant asked the Council for support.

Actions taken:

The Council's investigator promptly turned to the Prosecutor General's Office of Ukraine and the National Police of Ukraine with a request to check the lawfulness of the investigator's actions. In addition, he stressed the need to comply with the Court of Appeal's decision and immediately return the temporarily seized property.

Result achieved:

Following the involvement of the Prosecutor's Office of Zaporizhzhia Oblast and the Central Investigation Department of the National Police of Ukraine, the Investigation Department returned the product to the Complainant. The case was closed successfully.



The existence of your institution allows to effectively protect the interests of business and restore the rights violated by state authorities.

Dmytro Ovsy,
managing partner of GORO LEGAL law firm

Subject: National Police inactivity

Bus arson investigation gets underway

Subject of complaint:
National Police

Complaint in brief:

In March 2018, a passenger transport company “Avto-Express” complained to the BOC about lack of response on the part of the National Police. In the summer of 2016, a group of people attacked a guard at a bus park in Mykolaiv and set buses belonging to the company on fire. In all, 7 buses were damaged for a total cost of over UAH 2mn.

Immediately after the launch of a criminal case, the Complainant named the individuals who, in the company’s opinion, were likely the instigators of this crime. He also suggested a motive and provided circumstantial evidence. Despite this, the Complainant claimed that the investigators had not interrogated these individuals, found no witnesses to the crime, and failed to look for the vehicle in which the perpetrators escaped.

The Complainant repeatedly tried to have the investigation moved to another team, with no result.

Actions taken:

The BOC investigator addressed the Prosecutor’s Office of Mykolaiv Oblast, asking it to take steps to ensure an effective, unbiased investigation of the criminal case. After Mykolaiv Prosecutor’s Office confirmed that the investigation was being handled contrary to Ukrainian law, the case was moved from the District Department of the National Police to a higher level, the General Directorate of the National Police in Mykolaiv Oblast, as requested by the Complainant. Every two weeks while the complaint was being reviewed, the BOC investigator contacted oblast police officers until he was certain that the case was moving forward.

Result achieved:

At the end of April, the Complainant thanked the BOC for ensuring that the case was properly handled.

Subject: National Police criminal case initiated

Criminal case against Dnipropetrovsk-based enterprise dropped for absence of a crime

Subject of Complaint:
Investigative Department
of Dnipropetrovsk Oblast
National Police

Complaint in brief:

On October 27, 2017, the BOC received a complaint from a seed exporting company that the Council had previously helped with a VAT refund. This time, the company complained about the actions of the National Police in Dnipropetrovsk Oblast. According to the Complainant, a baseless criminal case had been launched against the firm.

After the company received its UAH 2mn VAT refund, the National Police in Dnipropetrovsk Oblast began an investigation against the Complainant. The firm's management was accused of attempting to illegally refund VAT from the State Budget. Such crimes are severely punished by the law: imprisonment for up to eight years.

Disagreeing with the criminal proceeding, yet unable to challenge it, the Complainant turned to the BOC for help.

Actions taken:

Having examined the circumstances of the case, the BOC investigator sent letters to the Dnipro District Tax Inspectorate and the Dnipropetrovsk Oblast police. He asked for the grounds for opening a criminal case against the Complainant and to inform the BOC what actions had already been taken.

Result achieved:

A month later, the Council contacted the Dnipropetrovsk National Police once again and was informed that the police planned to drop the criminal case against the Complainant for absence of a crime. On February 6, the criminal case was closed.



Thank you for professionally completed work,
for understanding and loyalty.

Stanislav Kovalenko,
Director of PROKGTGAZBUD, LLC

Subject: National Police corruption allegation**National Police returns property to sports equipment manufacturer****Subject of Complaint:**

Osnovyanskyi Police
Department of the Main
Department of the National
Police in Kharkiv Oblast
(National Police)

Complaint in brief:

A sports equipment manufacturer from Kharkiv turned to the Council. The National Police did not return property to the Complainant seized based on the results of the search, despite the relevant court ruling.

In October 2018, law enforcers searched the house of the company's director and seized the property, part of which the court ordered to return to the owner. However, the National Police was slow on complying with the court order.

Actions taken:

The Council's investigator upheld the company's position and addressed the National Police and the Prosecutor General's Office in writing. He stressed it was necessary to comply with the court ruling and return the said property to the Complainant. At first, law enforcers forwarded the Council's letter to the Prosecutor's Office of Kharkiv Oblast, and then – to the National Police in Kharkiv Oblast.

Result achieved:

With the Council's facilitation, on the eve of the New Year holidays, the seized property was returned to the Complainant in accordance with the court ruling. The company confirmed it and thanked the Council for assistance. The case was closed successfully.



The BOC has established itself as a reliable institution whose aim is to resolve conflicts and disputes between government and business. It is worth noting the quality and promptness of the implementation of the issues, as well as the kindness, competence, professionalism of employees, individual approach to each issue.

Yuri Kviatkovskii,
Director of Alliance Metal, LLC

ACTIONS OF LOCAL COUNCILS/ MUNICIPALITIES



Subject	Case closed with result	Case closed with recommendations	Case discontinued	2018 Total
Local councils/municipalities other	10	3	12	25
Local councils/municipalities land plots	2	3	2	7
Local councils/municipalities rules and permits	3	1	3	7
Local councils/municipalities investment disputes	0	0	1	1



Thanks to the work of the Council, interaction and resolving issues with state bodies has become more transparent and deprived of bureaucracy and formalism.

Volodymyr Karas

Director of VOSKHOD Agriculture LLC

Subject: Local councils/municipalities land plots**Helping businesses to establish effective and transparent communication with the authorities**

Subject of complaint:
Dnipropetrovsk Regional State Administration (Dnipropetrovsk RSA)

Complaint in brief:

On March 27, 2018, a grain company from Dnipropetrovsk region addressed the Council. According to the company, Dnipropetrovsk RSA refused to lease to the company a land plot, where its grain complex is situated.

The Complainant had appealed to Dnipropetrovsk RSA three times to extend the lease term. However, each time, due to incomplete set of documents or mistakes in submission, a local authority rejected the company's appeal.

Having got tired of refusals and doubting the impartiality of the regional administration actions, the Complainant appealed to the Council.

Actions taken:

Having examined the complaint materials, the Council's investigator found out that all refusals of Dnipropetrovsk RSA were grounded. However, realizing that this plot is vital for the company to continue its operations, the Council helped the Complainant. The investigator asked Dnipropetrovsk RSA to consider the company's appeal impartially and comprehensively.

Result achieved:

The Council managed to establish an effective dialogue between the Complainant and Dnipropetrovsk RSA. The company took into account all the remarks and filed a new petition. At the end of July, the Complainant received the mentioned land plot on lease. The case was closed successfully.

Subject: Local councils/municipalities rules and permits**Complainant finally gets reply from Executive Committee of Zaporizhzhia City Council**

Subject of complaint:
The Executive Committee of Zaporizhzhia City Council (Executive Committee)

Complaint in brief:

The Council received a collective complaint from the Association of Internet Providers. Eighteen companies complained about the management of apartment buildings. According to the Complainants, management companies artificially overrated cost of access to distribution points for Association members. In addition, the Executive Committee that selected and approved managers, ignored the Association appeal. Pursuant to the Rules of Procedure, the Council does not investigate complaints of businesses against other business entities, therefore, only part of the complaint related to omission of Zaporizhzhia municipality regarding its failure to consider the Association appeal was taken into consideration.

The complaint review process revealed that Zaporizhzhia City Council indeed adopted the procedure for hooking up to access points, according to which service companies were selected on a competitive basis. However, it should be noted the Complainant did not have any claims regarding the conduct of tender or its results.

Actions taken:

The Council's investigator examined the circumstances of the case and asked the Executive Committee in writing to consider the Association appeal and give a clear and comprehensive reply to it.

Result achieved:

A month later, the Executive Committee responded to the Complainant. It stated in writing it had no right to interfere with the legal commercial activities of apartment buildings managers. In addition, the municipality advised companies-service providers the Complainant acts on behalf of to tackle issues of access to utility rooms of residential buildings directly with apartment building co-owners association. Given the fact the Executive Committee implemented the recommendation and provided a substantiated reply to the Complainant, the Council decided to discontinue investigation of the case.

Subject: Local councils/municipalities investment disputes

BOC intends to contribute to water management modernization project in Kramatorsk

Subject of complaint:
Kramatorsk City Council

Complaint in brief:

A Slovenian construction company turned to the Business Ombudsman Council. The complaint dealt with unsuccessful attempts to launch a joint Ukrainian-Slovenian "Development of Urban Infrastructure-2" project in Kramatorsk at the expense of the World Bank loan. The purpose of the project was to improve the quality of services and efficiency of using energy by utility companies in the area of water supply, wastewater treatment and water supply system energy efficiency management in Kramatorsk.

Actions taken:

The BOC investigator sent a request to the Chairman of Kramatorsk City Council and the Head of Kramatorsk Vodokanal public utility company and recommended to approve the project as soon as possible. The City Council informed measures for project implementation had been taken – the amount of using allocated funds had been approved with the World Bank and the plan aimed at stabilizing the financial state and preventing Kramatorsk Vodokanal bankruptcy had been developed.

Given the project importance for Kramatorsk, the investigator continued monitoring the Business Ombudsman's Office recommendation implementation status and applied to the government agency again two months later. However, Kramatorsk City Council soon informed the BOC the World Bank decided to stop participating in the project. So, the Complainant's issue became irrelevant.

Result achieved:

The Council had to discontinue the investigation of the complaint, due to its circumstances being irrelevant.

Subject: Local councils/municipalities other

Raidership against a Cypriot investor halted

Subject of complaint:
Martyniv village council of Pulynskiy District of Zhytomyr Oblast (village council)

Complaint in brief:

On July 13, 2018, a Cypriot investor turned to the Business Ombudsman Council. The state registrar of the village council illegally re-registered the Complainant's Ukrainian business to another person.

In 2005, a Cyprus company opened its representative office in Ukraine and invested in real estate. However, in July 2018, the owners found out that the company no longer belonged to them. The state registrar of the village council in Zhytomyr Oblast changed information on the director of the company and re-registered the business to the asset management company. The registrar also did not notify the old owners that he was removing them from the register, although this was legally binding.

At the same time, the Complainant insisted that he did not sell business to anyone and provided no power of attorneys for such actions. To protect its legitimate interests the company turned to the Anti-Raidership Commission of the Ministry of Justice and the BOC.

Actions taken:

Having examined case materials, the Council's investigator asked the MinJust for an objective and prompt consideration of the Complainant's application. The Ministry replied that it was studying the documents received on the case of the company.

Result achieved:

The MinJust canceled registration data records and returned business to the legal owner. The case was closed.

PROSECUTOR'S OFFICE



Subject	Case closed with result	Case closed with recommendations	Case discontinued	2018 Total
Prosecutor's Office procedural abuse	10	8	2	20
Prosecutor's Office criminal case initiated	13	0	5	18
Prosecutor's Office inactivity	6	2	4	12
Prosecutor's Office other	3	0	0	3
Prosecutor's Office corruption allegations	1	0	0	1



The Business Ombudsman Council is capable of implementing one of the Government's main tasks: creating a high-quality business climate and conditions to avoid any pressure from controlling bodies towards the compliant business.

Olga Korneva,
Representative of Autoparts-VM, LLC

Subject: Prosecutor's Office procedural abuse**Danish company BIIR fends off attempt to take back its building**

Subject of complaint:
Odesa Oblast Prosecutor's Office

Complaint in brief:

On September 1, 2017, BIIR Property, a subsidiary of BIIR Danish Engineering turned to the BOC. Former owners were trying to illegally take back a building belonging to the Complainant.

BIIR had launched operations in Odesa in 2014, after being forced to relocate from Luhansk. With plans to expand its staff, in March 2017 the company bought a building for its office from a financial company. Within days problems began. The former owner, Megas-Stroy, claimed ownership of the building.

But the court rulings register showed that Megas-Stroy had lost ownership of the building because it had defaulted on its mortgage. As the right of claim was transferred from one bank to another, a financial firm had purchased the facility, and BIIR Property, in turn, bought it from them.

However, the Complainant said that Megas-Stroy decided to get the building back at any cost and appealed to the Prosecutor's Office and courts. It assured the Prosecutor's Office that the financial company had taken possession of the building by fraud. In court, the former owner claimed that the financial company had attempted to claim the building as collateral, which was not expressly provided for in the mortgage agreement.

Determined not to let things lie, Megas-Stroy managed to get several rulings from an investigation judge at the Prymorsk District Court of Odesa city to seize the building. In addition, the lower commercial court ruled that the agreement under which the financial company had acquired the building was illegal and demanded that the facility be returned to Megas-Stroy company.

Actions taken:

In March 2018, the Council's investigator addressed the Prosecutor General's Office of Ukraine (PGO) with a request to check the proper conduct of a preliminary investigation by the National Police in the criminal proceeding. To ensure the objectivity of the investigation, the case was handed over from Odesa to Kyiv. For three months, the Council monitored the progress of implementing recommendations by law enforcement agencies. During 2018, the investigator brought the company's case up for consideration by the PGO's Expert Group several times.

Result achieved:

In early June, the National Police decided to close the criminal proceeding against the Complainant. Ownership of the building in Odesa was confirmed as legally belonging to BIIR.

Subject: Prosecutor's Office criminal case initiated

PGO closed a criminal case against Nova Poshta due to absence of a crime

Subject of complaint:
Prosecutor General's Office of Ukraine (PGO)

Complaint in brief:

On March 21, 2018, Nova Poshta, a leading Ukrainian document and cargo delivery service, turned to the BOC. The company complained about ungrounded searches and unlawful pressure on its business activities by the PGO.

On March 16, law enforcers conducted searches in Nova Poshta office and warehouse premises in Kyiv, Dnipro, Odesa, Lviv, Kharkiv and Poltava. The Prosecutor's Office reported that as a result of investigative procedures, documents, funds not accounted and earned in cash had been seized. A criminal proceeding against Nova Poshta was investigated based on articles "abuse of power" and "tax evasion".

Actions taken:

On April 10, the Council sent an official appeal to the PGO asking to check circumstances of the case and, if they are confirmed, to bring perpetrators to liability. In its letter the Council emphasized that searches in the Complainant's premises were conducted without good reason. Particularly, law enforcement officers did not try to get things and documents voluntarily. In addition, during the search of the Complainant's office in Kharkiv, its lawyer was not allowed to perform investigative actions.

On April 06, the PGO responded that the pre-trial investigation of the criminal proceeding was ongoing, and all investigative actions under this proceeding were carried out in compliance with the requirements of the Criminal Procedural Code of Ukraine. In addition, the law enforcement agency stressed the impossibility of disclosing information of pre-trial criminal proceeding investigation.

Not having received a reply on the substance of the appeal in the letter, on June 8, the Council brought up a complaint for consideration of the Working Group with PGO representatives. During the meeting, the Council emphasized that one being non-responsive to violations during preliminary investigation can really testify that it is used for illegal pressure on the Complainant's business. In view of the above, the Council recommended the PGO to take control of the criminal proceeding pre-trial investigation and ensure its impartial investigation without unreasonable interference with the economic activities of the Complainant.

Result achieved:

On June 14, the PGO closed the criminal proceedings against the company due to absence of a crime. In its letter to the Council,

Nova Poshta noted: "We are grateful to the Business Ombudsman Council for support in advocacy of our rights and legitimate interests. We are particularly pleased to note a professional analysis of PGO officials' actions within the framework of pre-trial investigation performed by your team. We believe that closing this criminal case became possible only thanks to the Business Ombudsman Council involvement!"

Subject: Prosecutor's Office inactivity

PGO properly investigates takeover attempt at big shopping mall

Subject of complaint:

Prosecutor General's Office of Ukraine (PGO), National Police

Complaint in brief:

On January 9, 2018, an investment company that owns a big shopping mall in Ukraine appealed to the BOC. Facing raider attacks, the Complainant reported about the failure of the National Police in Lviv Oblast to act in the case.

The first attempt to illegally take over the complex took place in the summer of 2017. A former director employed by the company, who had been dismissed for theft of property during the construction of the facility, came to the center with a demand to hand the originals of certain documents and the corporate seals over to him. Showing falsified documents, he informed company staff that the business had been sold to new owners. Fortunately, the police were called and the real owners proved that the former director was not telling the truth.

However, the Complainant reported, that in September another attempt was made to take over the complex. Based on forged documents, they changed information about the property owners in the Unified State Register of Property. Based on this, the Complainant had filed three criminal lawsuits.

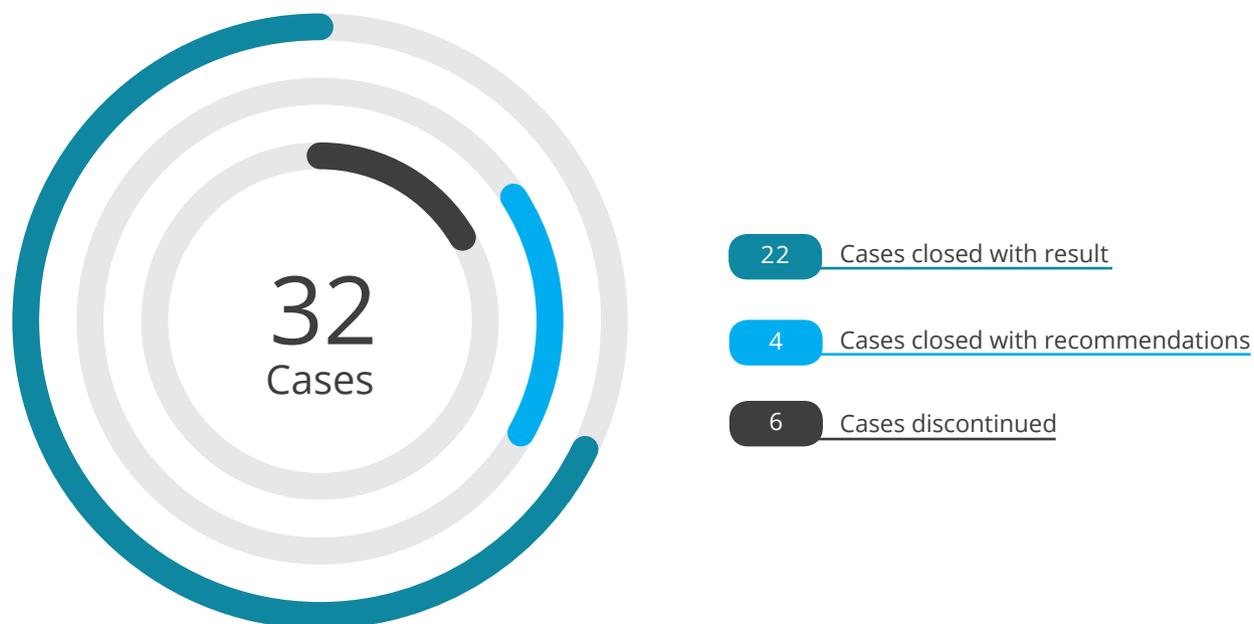
Actions taken:

On January 12, 2018, the BOC investigator addressed the PGO in writing. The Office was pursuing two of the cases and had handed the third one over to a division of the National Police in Kyiv Oblast. For a few weeks, the Council's investigator continued to communicate with the top management and a National Police investigator. The BOC ensured that law enforcement officers heard the case file of the Complainant, intensified the investigation, and made the necessary written requests and other investigative actions.

Result achieved:

On February 21, the company informed the BOC that it considered its complaint resolved. At present, the suspects in the illegal takeover attempt are being checked for involvement in other crimes.

CUSTOMS ISSUES



Subject	Case closed with result	Case closed with recommendations	Case discontinued	2018 Total
Customs valuation	3	1	2	6
Customs clearance delay/refusal	7	0	2	9
Customs overpaid customs duties refund	5	1	1	7
Customs other	7	2	1	10

Subject: Customs valuation

Mykolaiv Customs stops adjusting customs value of imported fish

Subject of the complaint:
Mykolaiv Customs
of the State Fiscal Service
(Mykolaiv Customs)

Complaint in brief:

On November 14, 2017, a distributor of fish and seafood turned to the BOC. According to the Complainant, Mykolaiv Customs had unreasonably increased the customs value of the goods they were importing.

In September, the company imported a batch of herring directly from a Norwegian supplier. To confirm the price of the goods for the customs authority, the importer prepared an exhaustive package of documents. According to the law, the first method for determining the customs value of goods is through the sale and purchase contract, which was enclosed with the goods. Prices are supposed to be determined using other methods only when it is impossible to determine it through a contract. Nevertheless, Mykolaiv Customs did not recognize the price specified in the contract. Instead, it suggested another value, higher by nearly 10%, which Customs had calculated based on similar contracts, but without taking into account seasonal price fluctuations for herring.

Disagreeing with the value adjustment, the importer filed a complaint with the customs authority, but it was rejected.

Actions taken:

The Council's investigator thoroughly examined the case materials and then participated in the review of the company's complaint at the SFS and supported its position.

Result achieved:

With the assistance of the Council, the SFS adopted Complainant's additional documents and agreed its declared customs value of the goods. This saved the company nearly UAH 900000.

Subject: Customs overpaid customs duties refund

Kyiv Customs refunds over UAH 4 mn to Fozzy Food

Subject of complaint:
Kyiv Customs of the SFS
(Kyiv Customs)

Complaint in brief:

On January 24, 2018, Fozzy Food, a leading Ukrainian retailer, appealed to the Council regarding refund of excessively paid customs duties.

Disagreeing with the imported products' customs value designated by the Complainant, Kyiv Customs adjusted it. Accordingly, the Complainant paid more taxes to the budget. In order to prove the correctness of the declared customs value and return the overpayment, the retailer appealed relevant decisions of Kyiv Customs in courts.

In 2013-2014, courts made a number of decisions in favor of the Complainant and ordered customs authorities to refund overpaid amounts. However, with regard to most supplies, Kyiv Customs refused to return funds. The reasons for the refusal were quite formal. In particular, the customs authorities insisted that the courts did not revoke decisions on adjustment, and "only recognized them as unlawful." Meanwhile, the amount of return on other deliveries and litigation was gradually increasing.

Actions taken:

Having examined case materials, the Council fully supported the Complainant's position and appealed to the SFS and Kyiv Customs with a request to comply with the court's rulings. In early February, the parties met and developed an action plan for the refund.

Result achieved:

With the assistance of the Council, the Complainant and Kyiv Customs achieved a constructive dialogue. After the meeting the Customs promptly satisfied several claims of the Complainant regarding the refund of UAH 3.9 mn. A disputable issue worth several hundreds of thousands of hryvnias, which remained on the agenda, was finally considered at the Council and the SFS Expert Group meeting. The latter confirmed the possibility of the refund in this case.

Thanks to the Council's support, the excessively paid customs duties worth over UAH 4 mn were refunded to the Complainant. The case was closed successfully.

Subject: Customs clearance delay/refusal

Odesa Customs allows export of timber from the Romanian supplier

Subject of complaint:
Odesa Customs of the State Fiscal Service of Ukraine (Odesa Customs)

Complaint in brief:

On February 4, 2018, a Romanian supplier of timber addressed the Council. Odesa Customs did not allow the export of the Complainant's wood products.

In January 2017, the company experienced difficulties with exporting raw materials. The fact is that on January 1, 2017, a moratorium on the export of timber, that affected the Complainant's, came into force on the territory of Ukraine. Meanwhile, according to the company, it had the right to export goods as they were brought to the customs terminal before the ban.

To prove he was right, the Complainant appealed to the Odesa Administrative Court. The court ruled in favor of the exporter and ordered Odesa Customs to complete the customs clearance of goods.

However, notwithstanding the court ruling, the customs delayed the release of the exporter's goods. The Complainant turned to the BOC with the said issue.

Actions taken:

The Council's investigator thoroughly studied the circumstances and materials of the case. He asked the Head of Odesa Customs in writing to check the status of customs clearance of the cargo and facilitate its prompt dispatch. But the customs authority had no clarification of the State Service for Food Safety (Derzhprodspozhyvsluzhba) at first. Then Odesa Customs reminded the export of timber was prohibited.

The case had not been resolved within 90 day term set by the Council to investigate. Therefore, the BOC issued a recommendation to the Department of Customs Control of the SFS to comprehensively and impartially consider the company's complaint and comply with a court decision.

Result achieved:

It took the government agency three and a half months to implement the Council's recommendation. On November 7, Odesa Customs finally allowed the export of the Complainant's freight. The case was closed.

Subject: Customs other

Energy Customs refunds UAH 4 mn to Gaztron

Subject of complaint:
Energy Customs of the State
Fiscal Service of Ukraine
(Energy Customs).

Complaint in brief:

On April 16, 2018, an international importer of liquefied gas and oil derivatives Gaztron-Ukraine turned to the Council with a complaint against Energy Customs. The Complainant could not refund an overpayment worth over UAH 4 million.

When importing a liquefied gas, in May 2015, the company hoped to be exempted from an excise duty as provided by the Customs Code. However, the Energy Customs refused to grant privileges to the Complainant. He had to pay an excise duty to receive the freight, thus overpaying more than UAH 4 mn.

Disagreeing with the refusal of the Energy Customs, the company challenged its actions in court. The investigation of the case lasted in courts of all instances for 2 years. In September 2017, the Higher Administrative Court of Ukraine ruled in favor of the Complainant. The privileges were found grounded, and the actions of the customs – illegal.

However, for more than half a year, the Energy Customs Court neither complied with the decision, nor returned the money, and the repeated appeals of the company were unsuccessful. The Complainant applied to the BOC to protect its legitimate rights.

Actions taken:

Having examined the materials of the complaint, the Council upheld the Complainant's position and asked the Energy Customs in writing to comply with the court's judgement. In addition, the BOC's investigator arranged a meeting between the management of both parties with personal involvement of the Deputy Business Ombudsman. During the meeting, Energy Customs clarified the procedure for adjusting documents in Poltava Energy Customs, the procedure and deadlines for filing applications for refund of funds. The government agency recommended that the company submit a new application taking into account these points.

Result achieved:

On July 20, the company finally received funds on its account. The Complainant thanked the Council "for the established communication with the Energy Customs, a professional approach and prompt actions of the team".

MINISTRY OF JUSTICE ACTIONS



Subject	Case closed with result	Case closed with recommendations	Case discontinued	2018 Total
MinJustice enforcement service	17	3	2	22
MinJustice registration service	8	1	4	13

Subject: MinJustice enforcement service

Holosiyiv Enforcement Agency transfers Euro debt to Polish parent company

Subject of complaint:
Holosiyiv District State Enforcement Service (Holosiyiv Enforcement)

Complaint in brief:

On January 18, 2018, a Polish manufacturer addressed the BOC with a complaint challenging inactivity on the part of Holosiyiv Enforcement Service.

The Complainant's Ukrainian subsidiary owed the parent company nearly €40,000 for leasing payments. After a court ruled in favor of the parent company, the debtor transferred funds to the Holosiyiv Enforcement account in August 2017.

However, by January 2018, the Executive Service still hadn't converted the amount received in hryvnia to euros and had not transferred the funds to the applicant's bank account. Holosiyiv Enforcement reported that its accountants were not authorized to buy foreign currency to enforce a court judgment. The company appealed unsuccessfully to Holosiyiv Enforcement on its own, with a number of suggestions for how to transfer the funds. Meanwhile, the euro/hryvnia exchange rate was rising, and during the delay, the funds intended for the Complainant had devalued by 10%.

Actions taken:

The BOC investigator appealed to Holosiyiv Enforcement with a request to respond actively and transfer funds to the Complainant. She also talked with the Holosiyiv Enforcement official in charge of this case and arranged a meeting with the officer.

Result achieved:

With the assistance of the Council, Holosiyiv Enforcement transferred the funds to the Complainant in full in early February. The case was successfully closed.

Subject: MinJustice registration service

**Raider attack against
Econia is stopped**

Subject of complaint:
Ministry of Justice (MinJust)

Complaint in brief:

On July 23, 2018, Econia, a producer of drinking water and baby food, addressed the Council regarding a raider attack at their plant in Cherkasy Oblast.

According to the Complainant, on July 19, about 15 people broke into company's premises claiming that they owned the plant. Apparently, these individuals had, through illegal registration actions at the State Register of Property Rights to Real Estate, registered ownership of assets that were actually and legally owned by the Complainant. These unlawful registration actions were the result of a court order dated back to 2007.

Company management noted that it wasn't the first attempt to take over their business. The raider story began in 2008, when Econia purchased the premises of a bankrupt company. In 2010, the first attempt to take over the plant was made, but the court confirmed that Econia had acquired the building legally.

Actions taken:

Having examined the materials of the Complaint, the Council supported the company's position. On July 26, the Council asked the Commission for Considering Complaints in the Sphere of State Registrations (Commission) to review the Complainant's appeal impartially and promptly. On August 9, the Council's investigator took part in a meeting of the Commission to consider the company's case.

Result achieved:

With the Council assistance, on August 10, MinJust satisfied the company's appeal and declared the unauthorized registration actions null and void. The case was closed successfully.

STATE SECURITY SERVICE ACTIONS



Subject	Case closed with result	Case closed with recommendations	Case discontinued	2018 Total
State Security Service procedural abuse	4	2	3	9
State Security Service criminal case initiated	4	0	2	6
State Security Service other	2	1	1	4
State Security Service corruption allegations	1	0	0	1
State Security Service inactivity	1	0	0	1



The Business Ombudsman Council gives hope for restoring confidence and transparency in business management in the real economy sector in Ukraine

Alisher Tiazhyn

General Director of KUSTO AGRO TRADING, LLC

Subject: State Security Service procedural abuse

Fish importer receives certificates originals seized by SSU investigator

Subject of complaint: Main Investigations Department of the State Security Service of Ukraine (SSU)

Complaint in brief:

A fish products importer turned to the Business Ombudsman Council. The Complainant suffered from SSU investigator illicit actions, who seized veterinary (sanitary) certificates originals without a court order. The Complainant obtained certificates duplicates to import frozen fish. However, at the state border, Odesa Regional Service of State Veterinary and Sanitary Control and Supervision suspended the Complainant's fish products import referring to invalidity of duplicates.

Actions taken:

The Council's investigator immediately applied to government agencies for clarification and sent a letter to the State Service of Ukraine on Food Safety and Consumers Protection (SSUFSCP) to explain the difference in the legal nature of veterinary (sanitary) certificates originals and duplicates. The case was also brought up at a meeting of an Expert Group between the BOC and SSU experts within the framework of the signed Memorandum on Cooperation. The Council's experts stressed that the SSU should comply with the ruling of Shevchenkivskyi District Court of Kyiv city and return veterinary (sanitary) certificates originals to the Complainant.

Meanwhile, the SSUFSCP confirmed the authenticity of the Complainant's veterinary (sanitary) certificates duplicates. The Council's investigator soon received a response from the SSU that their investigator had recently received a duly certified decision copy of Shevchenkivskyi District Court of Kyiv city and addressed to the Complainant to return document originals.

Result achieved:

The importer received veterinary (sanitary) certificates originals. The SSU implemented the Council's recommendation. The case was successfully closed in favor of the Complainant.

Subject: State Security Service criminal case initiated**SBU closes criminal proceedings against paper products distributor****Subject of complaint:**

The Main Department of the State Security Service of Ukraine in Kyiv city and Kyiv Oblast

Complaint in brief:

A distributor of paper products turned to the Business Ombudsman Council. The Complainant reported unlawful pressure on the part of the SSU, as well as Kyiv Local Prosecutor's Office, caused by criminal proceedings investigation regarding appropriation of funds of the South-West Railways. The Complainant allegedly distorted information in Delivery and Acceptance Reports – provided less goods of other quality than provided under tenders and contracts terms – thereby causing damage to the South-West Railways.

Actions taken:

The BOC investigator examined the circumstances of the complaint and found the mismatch of the application plot based on which the relevant proceedings were registered with the Unified Register of Pre-Trial Investigations (URPTI) with that of the criminal offense. The BOC expert appealed to the Prosecutor of the local Prosecutor's office, who carried out procedural guidance in these proceedings, and drew his attention to discrepancies.

Result achieved:

In a few months after the appeal to the Council, the Complainant informed of absence of further investigative actions and closure of criminal proceedings. The SSU implemented the Council's recommendation in the course of investigation. The case was successfully closed in favor of the Complainant.

Subject: State Security Service corruption allegations**Proceedings against YouControl are finally closed****Subject of complaint:**

Central Investigation Department of the State Security Service of Ukraine (SSU)

Complaint in brief:

An IT company providing information services turned to the Council. The company complained about SBU procedural abuse.

In 2016, law enforcers initiated a pre-trial investigation against the company. It was charged with illegal receiving of information and interfering with automated systems operation. Accordingly, the company's office, the employees' and their relatives' apartments were searched. Computer equipment, documents and monetary funds were seized. The company's activities were seriously limited.

In the summer of 2018, the court set a time limit for completing the pre-trial investigation on a case – 2 months. However, at the time

of the Complainant's appeal to the Council, the pre-trial investigation was ongoing.

Actions taken:

The Council recommended the SBU and the Prosecutor General's Office (PGO) in writing to comply with reasonable time limits of the preliminary investigation, particularly to implement the court ruling. However, the SBU replied the PGO planned to challenge the corresponding court decision.

Therefore, the Council brought up the Complainant's issue for consideration of the Expert Group with the SBU and the PGO, where it expressed its position. The investigator stressed the court ruling on completion of the pre-trial investigation was valid and should be complied with.

Result achieved:

The PGO changed the company's case jurisdiction and handed it over to the National Police, which soon closed the criminal case against the company. The company that tried to complete the pre-trial investigation for two years thanked the Council for assistance and support in resolving the case.

Subject: State Security Service other

SSU agrees to cease delaying clearance for CCC Ukraine

Subject of complaint:
State Security Service of Ukraine (SSU)

Complaint in brief:

On February 18, 2018, CCC, an international footwear retailer turned to the BOC. The company complained about SSU actions that caused a delay in the customs clearance of its goods.

In early 2018, the importer's goods were subjected to a number of in-depth customs inspections. According to the Complainant, "special attention" was paid to the batch due to the focus of the SSU. As a result of such thorough inspections, the company suffered not only from delays in the delivery of its goods, but also additional charges for unloading/ loading those goods. Until then the company had never violated import rules.

Actions taken:

The BOC appealed to the SSU to verify the accuracy of the information on the specific instruction. The investigator also asked the SSU to refrain from checking such law-abiding importers as

the Complainant. In addition, the Council brought up the company's issue to an Expert Group meeting with the SSU management.

Result achieved:

During the meeting of the Expert Group, law enforcement officers confirmed that there were no criminal proceedings or other negative information against the Complainant. Besides, the SSU noted that it had no intention to further initiate an in-depth customs inspection of the importer's goods. The case was closed successfully.

STATE COMPANIES



Subject	Case closed with result	Case closed with recommendations	Case discontinued	2018 Total
State companies other	6	2	5	13

Subject: State companies other

Energoatom SE finally pays off for the equipment supplied

Subject of complaint:

The National Nuclear Energy Generating Company Energoatom (Energoatom SE)

Complaint in brief:

On August 8, 2018, a large refrigeration and air conditioning equipment supplier approached the Council. Energoatom SE owed UAH 1.7 mn to the Complainant for the equipment supplied.

In January 2018, the state owned enterprise ordered industrial air conditioners worth UAH 1.7 mn. from the supplier. On March 29, the equipment was delivered to the customer, and he signed an Acceptance Report in confirmation thereof. Under the contract, the buyer had to pay for the received goods within 30 business days.

However, as of September 14, Energoatom SE delayed paying for the equipment. The Complainant turned to the Business Ombudsman Council with the said issue.

Actions taken:

The Council's investigator studied the case materials and upheld the Complainant's position. He asked the state-owned enterprises in writing to fulfill its contractual obligations. Only after the Council's appeal, Energoatom's Department informed of the reasons for payment delay. It turned out a tax invoice lacked a calculation adjustment to it.

Result achieved:

The enterprise promptly prepared the necessary calculation. On November 21, a state-owned enterprise finally paid off the supplier in full. The Complainant thanked the Council for facilitation in resolving the case.



We wish you inspiration, confidence and success in a difficult but very important task of protecting the legitimate interests of business entities.

Andriy Puriy

Director of SAMGAZ LLC

LEGISLATION DRAFTS/AMENDMENTS



Subject	Case closed with result	Case closed with recommendations	Case discontinued	2018 Total
Deficiencies in regulatory framework tax	4	2	2	8
Deficiencies in regulatory framework customs	0	0	1	1
Deficiencies in regulatory framework state regulators	2	2	3	7
Deficiencies in regulatory framework local councils/municipalities	0	0	1	1
Deficiencies in regulatory framework other	0	1	1	2

We are confident that your mission facilitates more transparent consideration of issues and complaints.

Oleksandr Agur,
Director of Shipping-Line, LLC

Subject: Deficiencies in regulatory framework: state regulators

The Cabinet finally delegates key chemical registration functions to MOH

Subject of complaint:
State Food Safety
and Consumer Protection
Service (SFSCP Service)

Complaint in brief:

On March 22, 2017, the Ukrainian rep office of a worldwide chemicals producer turned to the BOC. The Complainant could not get certificates to extend the term of its disinfectants registration.

Until September 2014, the State Sanitary and Epidemiological Service dealt with the examination, registration and re-registration of such chemicals. After it stopped operations, most of its functions were taken over by the SFSCP Service, according to the Cabinet Resolution. As it turned out, not all of the duties were delegated: the registration and re-registration of disinfectants were left in limbo.

And so, the SFSCP Service refused to re-register, as this function was not within its legal scope. The company had unsuccessfully tried to draw the attention of the Cabinet of Ministers and the Ministry of Justice to this problem.

In fact, the problem was systemic, affecting not only the Complainant, but also several industries at the same time. The vast majority of disinfectants used in healthcare establishments, in the food industry and restaurant business, including the disinfection of potable water, are imported. As this issue is not properly regulated, their use in Ukraine is prohibited.

Actions taken:

The BOC investigator studied the legal framework governing the Complainant's case. He described the company's problem in letters to the SFSCP Service, to the Ministry of Health, the Ministry of Justice, the Ministry of Agrarian Policy and Food, and the State Regulatory Service. As a result, it turned out, that there were several bills that would allow the matter to be resolved, but not a single one had actually been adopted. Then the BOC sent a letter to the Ministry of Healthcare proposing options so that the Complainant would not have to cease its commercial activity during transition period. For a few months, the investigator also kept in touch with the Cabinet and constantly monitored the status of this problem.

Result achieved:

With the facilitation of the Council, the CMU finally assigned the function of the registration and re-registration of disinfectants to the Ministry of Health in March 2018. The entire procedure was simplified compared to the practices of the defunct sanitary and epidemiological service and a systemic problem was successfully resolved. The Complainant was able to extend the validity of permits for its products and resume normal business activities.

Subject: Deficiencies in regulatory framework tax

Tax invoices can now be registered even with a negative balance value

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

Complaint in brief:

On May 21, 2018, the Ukrainian power supplying company addressed the Council. The enterprise complained about the incorrect functioning of the system of electronic administration of value added tax (SEA VAT) when registering tax invoices.

In December 2016, the Verkhovna Rada of Ukraine adopted amendments to the Tax Code. These changes (p.200-1.9) allowed enterprises to register tax invoices even with a negative balance value. But the SFS and the Ministry of Finance did not provide this opportunity to taxpayers, because they did not develop the corresponding software. This issue was addressed to the BOC by a joint-stock company.

Actions taken:

Within the framework of the Memorandum on Partnership with the SFS, the Council introduced the complaint to the tax Expert Group meeting. Parties met and discussed the status of development and updating of software. The Council stressed the importance of the issue for taxpayers and the need for its prompt resolution.

Result achieved:

Having revised the system, state bodies reported that the mechanism was implemented. From now on, taxpayers are able to register tax invoices even with a negative balance value.

Subject: Deficiencies in regulatory framework customs

The Council closes the case due to insufficient level of cooperation on the part of the Complainant

Subject of complaint:
The State Fiscal Service (SFS),
SFS Customs (Customs)

Complaint in brief:

The Council received a complaint from timber products exporter. The company complained about the Customs that demanded an additional package of documents for customs clearance.

According to the company, the customs authority did not have the right to demand such documents, as it contradicted the Customs Code of Ukraine.

Actions taken:

Despite the fact the Complainant did not provide all the supporting documents proving violations of the government agency, the Council started the complaint investigation. In the course of the investigation, the investigator requested additional documents from the Complainant confirming the Customs malpractice. However, the company did not respond. The investigator contacted

the Complainant three times within one month and reminded of the additional documents. However, the exporter still didn't provide them.

Result achieved:

Taking into account the insufficient level of cooperation on the part of the Complainant, the Council decided to discontinue the investigation of the case and informed the company on the above-mentioned.

Subject: Deficiencies in regulatory framework local councils/municipalities

Complaint about non-placement of ads by Kyiv City Council was found unsubstantiated

Subject of complaint:

Kyiv City Council,
Kyiv City State
Administration (KMDA)

Complaint in brief:

A recruiting company addressed the Council with a complaint against the Kyiv City Council. The company complained that Kyiv state agencies demanded additional documents for placing ads not provided for by the legislation.

According to the Complainant, KMDA does not have the right to demand a developer's license copy a respective construction decision. The Complainant believed the said requirement was contrary to outdoor advertising placement rules approved by the CMU because such a document provision is not envisaged by them.

Actions taken:

The investigator studied circumstances of the case and found that the relevant wordings of the Advertising Procedure were unclear and might allow abuse. According to existing case law, a license in construction sphere is fully compliant with the requirements prescribed by the Procedure to obtain a corresponding permit. Therefore, the investigator asked KMDA Advertising Department in writing to explain whether they agreed with the relevant judicial practice or otherwise provide necessary clarifications. At the same time, the KMDA informed clarifying legislation norms was outside its competence.

The Council suggested that Complainant discuss the subject of the complaint within the framework of the working meeting pursuant to Memorandum of Partnership and Cooperation between the KMDA and the BOC. However, the company did not agree. Moreover, the Complainant informed it did not apply to the government agency for an ads placement permit and was not going to do it.

Result achieved:

Taking into account that the Complainant did not want to apply to the local self-government body and refused taking further actions as proposed by the Council, the case was closed. Given the Complainant's position, based on carried out investigation, the Complaint was found to be largely unsubstantiated.



3

SYSTEMIC ISSUES AND RECOMMENDATIONS

The Business Ombudsman Council constantly flags trends in complaints to government officials and recommends systemic changes to the legislation affecting the business environment as a whole. The most common source of complaints are consistently the tax issues, actions of law enforcement agencies and state regulators. We recorded several of these in 2018 in our systemic reports, and plan to see many more firsthand in 2019.

3.1. Systemic issues identified in the reporting period

(Clause 5.3.1 (h) of Rules of Procedure)

Year after year, **tax issues** is the largest category of complaints to the BOC. In 2018, the Council received 9% more complaints regarding tax issues than in 2017. This was mainly driven by an increase of appeals regarding tax inspections and tax invoice suspension.

Tax invoice suspension constituted a half of all tax-related issues in 2018 and was the most frequent subject of complaints. However, we observed a gradual decline of this subject throughout the year. Tax inspections, a pressing issue for Ukrainian companies, performed an upward trend since the previous year and amounted to 14% of all appeals – 60% more than in 2017.

Businesses also lodged more complaints concerning ungrounded tax criminal cases. Meanwhile, we received less complaints regarding VAT refund, VAT electronic administration, termination of agreements and termination of VAT payers.

Another specific issue worth mentioning is **administrative appeals process at the State Fiscal Service**. While it is good that Administrative Appeals Process is present at the SFS, there are certain disadvantages in it. The SFS, aiming to maximize the flow of additional charges, is very resistant to cancel its decisions regarding tax inspections. The fiscal agency frequently doesn't take into consideration the BOC's reasonable positions. This leads to the overload of the court system with cases, which are eventually ruled in favor of complainants.

In addition, the Administrative Appeals Process is essentially "quasi-judicial". There are no clear rules at SFS as to what "case materials" are. Instead, there are some analytical notes and conclusions that make the whole process weird and non-transparent. The decisions are often made

based on these documents, which the taxpayers have never seen, and on the results of some internal meetings, where no other parties, except for the SFS, were present.

Failure to comply with court decisions is another serious issue that our Office observed in the reporting period. The problem is that the state body cannot be forced to execute a decision. Coercive mechanisms that work for individuals and legal entities do not work in this case. Therefore, the state has an opportunity simply not to implement recommendations, without any legal grounds for it, and it actually uses it.

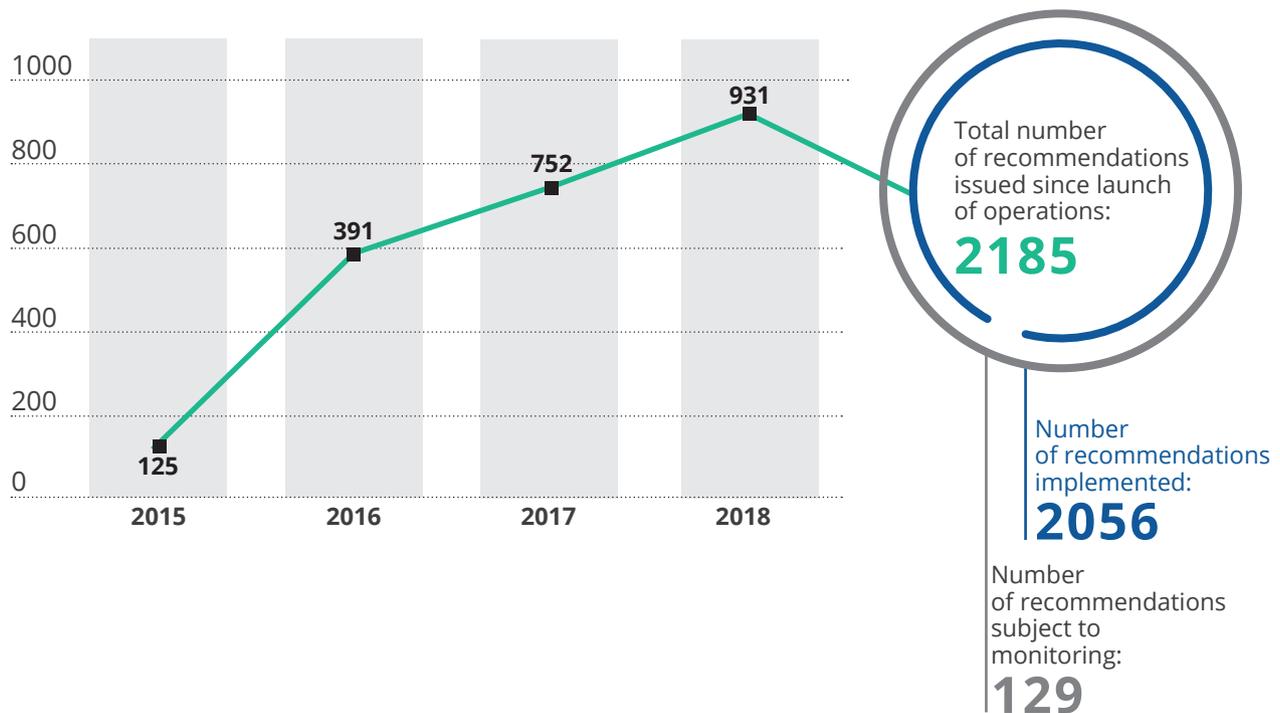
Actions of law enforcement bodies traditionally generate a lot of complaints to our Office, given the impact they exert over the entrepreneurs. This year, businesses filed more cases related to the actions of the National Police and the Prosecutor's Office as compared to 2017. Entrepreneurs mainly complained about the National Police procedural abuse and inactivity, as well as procedural abuse of the Prosecutor's Office.

The third block of appeals, **the actions of state regulators**, which we from now on will expand with the NEURC, NBU and The National Council on TV and Radio Broadcasting, possessed a moderate 7% share. There was some drop (-8%) in the number of appeals as compared to 2017, but an increase as compared to 2016 (+64%).

In comparison with 2017, businesses lodged fewer appeals concerning actions of local councils and state-owned enterprises, customs issues and legislations drafts. At the same time, the number of complaints related to the Ministry of Justice went up by one fifth as compared to 2017 and doubled as compared to 2016.

3.2. Recommendations made to relevant authorities and implementation rate

(Clause 5.3.1 (i) of Rules of Procedure)



RECOMMENDATIONS MADE TO RELEVANT AUTHORITIES AND IMPLEMENTATION RATE

Row Labels	Issued	Imple mented	Implemented to issued ratio		
			2018	2017	2016
State Fiscal Service	1502	1452	97%	93%	91%
Prosecutor's Office of Ukraine	96	78	81%	78%	73%
National Police of Ukraine	82	70	85%	88%	57%
Local councils and municipalities	80	69	86%	87%	62%
Ministry of Justice	78	74	95%	96%	97%
State Security Service	48	45	94%	91%	93%
Ministry of Regional Development	44	42	95%	93%	100%
Ministry of Economic Development and Trade of Ukraine	38	32	84%	84%	93%
Ministry of Ecology and Natural Resources of Ukraine	33	31	94%	100%	83%
Parliament, the Cabinet of Ministers, the President of Ukraine	24	19	79%	75%	56%

Row Labels	Issued	Implemented	Implemented to issued ratio		
			2018	2017	2016
Ministry of Internal Affairs	22	20	91%	90%	76%
State Enterprises	22	19	86%	100%	100%
Ministry of Social Policy and Labour of Ukraine	19	17	89%	78%	80%
Ministry of Finance of Ukraine	15	14	93%	58%	100%
Ministry of Infrastructure of Ukraine	10	9	90%	60%	100%
Ministry of Health of Ukraine	9	9	100%	100%	100%
Ministry of Agrarian Policy and Food of Ukraine	8	7	88%	95%	92%
Ministry of Energy and Coal Industry of Ukraine	8	7	88%	50%	100%
National Commission for State Regulation of Energy and Public Utilities	8	7	88%	83%	67%
Commercial and other courts	7	7	100%	100%	100%
Antimonopoly Committee of Ukraine	6	6	100%	67%	150%
State Funds	4	2	50%	50%	0%
State Service of Ukraine on Food Safety and Consumer Protection	4	3	75%	100%	100%
NABU	3	3	100%	100%	100%
National Bank of Ukraine	2	2	100%	100%	67%
Communal Services of Ukraine	1		0%		
Ministry of Education and Science of Ukraine	1	1	100%	100%	
National Council of Ukraine on Television and Radio Broadcasting	1	1	100%	100%	100%
State Emergency Service of Ukraine	1	1	100%	100%	100%
Other	9	9	100%	71%	100%
Grand Total	2185	2056	94%	91%	87%

The Council has been progressively improving the implementation rate of recommendations: from 87% in 2016, to 91% in 2017 and finally 94% in 2018.

The State Fiscal Service, to which we addressed over two thirds of all recommendations, performs a very high implementation ratio – 97%. Moreover, we observe a gradual improvement of this figure for the third consecutive year.

With respect to law enforcement bodies, the Prosecutor's Office and the State Security Service improved their performance (+3pp each) as compared to 2017, while the National Police – worsened (-3 pp).

Among state bodies, to whom we issued the most recommendations, the following agencies improved their positions: the Ministry of Regional Development (+2pp), the Ministry of Internal Affairs (+1pp), the Parliament, the Cabinet of Ministers and the Presidents (+4pp). The Ministry of Justice (-1pp) and the Ministry of Ecology and Natural Resources (-6pp) worsened their performance, although it's still not lower than the average one. On the contrary, local councils lost 1pp and resulted with 86% by the end of 2018. The Ministry of Economic Development hasn't reached the level of 100%, which it managed to implement in 2016, in the reporting year it was only 84%.

3.3. Implementation of systemic recommendations arising from investigations

Government agency	Issue arising from the investigation	Result achieved with the BOC facilitation
State Fiscal Service of Ukraine (SFS)	<p>According to the Tax Code (TC), single tax payers of groups I-III can sell beer and jug wines. At the same time, selling cider (including pear cider) is possible only provided after transition to the general system of taxation.</p>	<p>Having acknowledged legal regulation of such beverages sale being disproportionate, the Council addressed the Ministry of Finance and SFS, asking to clarify what were the reasons for restrictions imposed on single tax payers of group I-III for the sale of cider. The Council also proposed to assess the feasibility of granting them this right.</p> <p>Four months of the BOC's hard work finally paid off. In late 2018 the Verkhovna Rada adopted the amendments to the TC which enabled single tax payers of group I-III to get a license for selling cider and pear cider.</p>
State Fiscal Service	<p>The electronic system of VAT administration (SEA) inappropriately processed cancelled duplicate tax invoices. As long as a duplicate tax invoice had been deleted, the system would have reduced the registration limit by the cancelled invoice amount, although it should have remained unchanged. For enterprises it meant financial losses. To continue their activities, they often had to add additional funds to their tax accounts.</p>	<p>The Council's investigators addressed the SFS with a request to correct the SEA error and adjust the formula on a case-by-case basis. It turned out that to resolve the problem, it was necessary to amend the legislation. As a result of eighteen months' work, regulation amending the legislation and allowing cancellation of duplicate tax invoices without reducing the registration limit was adopted. These changes became effective on December 1, 2018.</p>

Government agency	Issue arising from the investigation	Result achieved with the BOC facilitation
State Fiscal Service	<p>In December 2016, the Verkhovna Rada of Ukraine adopted amendments to the Tax Code. These changes (p.200-1.9) allowed enterprises to register tax invoices even with a negative balance value. But the SFS and the Ministry of Finance did not provide this opportunity to taxpayers, because they did not develop the corresponding software. This issue was addressed to the BOC by a joint-stock company.</p>	<p>Within the framework of the Memorandum on Partnership with the SFS, the Council introduced the complaint to the tax Expert Group meeting. The Council stressed the importance of the issue for taxpayers and the need for its prompt resolution. Having revised the system, the SFS reported that the mechanism was implemented. Since then taxpayers have been able to register tax invoices even with a negative balance value.</p>
<p>Department of State Enforcement Service under the Ministry of Justice (SES)</p>	<p>The SES refused to initiate enforcement proceedings based on court decision since the writ itself was not in compliance with the law because the first name, patronymic and surname of the judge who signed it were not indicated, only surname and initials. The state enforcer referred to Para. 1 of Art. 4 of the Law On Enforcement Proceedings, which provides that the writ shall include the name and date of issue of the document, the name of the agency, and the first name, patronymic, surname and title of the official who issued it.</p>	<p>In the Council's opinion, the SES interpreted provisions of the law incorrectly. Such conditions should not apply to court decisions. The BOC had seen similar cases in the past, so it saw the problem as systemic. After several rounds of negotiations, MinJust issued a letter urging SES departments to equally apply the provisions of the law: the first name, patronymic, surname and the title are required only for documents issued by the named official. For documents issued by courts and other government agencies, this requirement does not apply. A systemic problem was resolved.</p>

Government agency	Issue arising from the investigation	Result achieved with the BOC facilitation
Zaporizhzhyaoblenergo State Enterprise PJSC (Zaporizhzhiaoblenergo)	The Tax Code stipulates that entrepreneurs may attribute VAT paid amounts to the tax credit without registering tax invoices based on invoices issued by oblenergos. However, due to a regulatory gap in the SEA, there was no such an option for them.	Having determined existing systemic discrepancies between legislation and SEA service functions, the Council's representatives repeatedly discussed the Complainants' issue at the SFS Expert Group meetings. Finally, the Ministry of Finance changed EAS functioning procedure. Adjustments were introduced in the test mode in July after submission of tax reporting by companies along with new version annexes to declarations filled out. A systemic gap, which Zaporizhzhya Oblast entrepreneurs suffered from, was finally filled.
Poltava Oblast General Directorate of the SFS (SFS)	The SFS did not agree to take into account specifics of the country's counterparty legislation when collecting debts and charging fines to enterprises. The point is that currently in Belarus, the presence of debt, which is not denied by the counterparty, can be confirmed by notaries rather than courts as in Ukraine.	Since the issue was systemic, the Council recommended that the Ministry of Finance amend domestic legislation, specifically to not impose fines in cases where Ukrainian companies have appealed not only to the courts, but also to agencies qualified to resolve cases of non-resident debt collection. On July 4, 2018, the President signed the Bill On Currency into law, which fully implemented the Council's recommendations

Government agency	Issue arising from the investigation	Result achieved with the BOC facilitation
National Commission for State Regulation of Energy and Public Utilities (NKREKP)	<p>In small towns and villages in Ukraine it's not easy to set up internet networks. In order to provide users with a connection, Internet Services Providers use existing electric and telecommunication infrastructure and pay for access to the infrastructure owners. The cost of access is supposed to be calculated in accordance with approved methodologies. However, the Complainant reported that some infrastructure owners were setting non-market fees. In addition, the same services were charged differently for different providers. Thus, for some market players it became commercially unviable to provide internet services. Ordinary users in the most remote places of Ukraine were simply left without access. The Association of Internet Providers turned to the BOC with a group petition. It complained that NKREKP was not acting in response to violations of licensing terms by infrastructure owners and unreasonable rises in rates.</p>	<p>In reviewing the case, the BOC investigator discovered that the issue of calculating fees was not regulated at the legislative level. So the Council recommended that the NKREKP flesh out the rules for using infrastructure to establish telecoms networks. On June 4, 2017, the Law "On Access to Buildings, Transportation and Electrical Facilities for the Development of Telecommunication Networks" came into effect. The law establishes caps on the cost of hook-ups to the power grid and sets out rules for setting up telecoms networks. The Ministry of Energy and Coal Industry was put in charge of compliance with the rules set forth in the law. In spring 2018, the Cabinet approved the Rules and Fee Calculation Methodology for access to of cable channel telecoms infrastructure elements drafted by NKREKP.</p>

Government agency	Issue arising from the investigation	Result achieved with the BOC facilitation
State Food Safety and Consumer Protection Service (SFSCP Service), Cabinet of Ministers of Ukraine (CMU)	Until September 2014, the State Sanitary and Epidemiological Service dealt with the examination, registration and reregistration of chemicals. After it stopped operations, most of its functions were taken over by the SFSCP Service, according to the Cabinet Resolution. As it turned out, not all of the duties were delegated: the registration and re-registration of disinfectants were left in limbo.	With the facilitation of the Council, the CMU finally assigned the function of the registration and reregistration of disinfectants to the Ministry of Health in March 2018. The entire procedure was simplified compared to the practices of the defunct sanitary and epidemiological service and a systemic problem was successfully resolved.
State Treasury Service (Treasury)	Information on withstanding state's debts and status of their repayment was incorrectly displayed on the official web-site of the Treasury.	After the BOC appeal the Treasury eliminated the systemic error and settlements on debts guaranteed by the state are now correctly displayed on its web portal.



Thanks to the Business Ombudsman Council, resolving issues with state authorities becomes more transparent and deprived of bureaucracy.

Mykola Dubnyuk,
Director of BESMYATEGHNELLC

3.4. Overview of systemic recommendations implementation

The Business Ombudsman Council's mandate implies not only helping businesses in terms of individual complaints, but also identifying and solving systemic issues affecting quality of business environment in Ukraine. We believe that the BOC is uniquely positioned to identify systemic problems and suggest possible solutions based on over 5000 complaints lodged by businesses to challenge various malpractices on the part of government agencies and sub-national governments, including entities controlled by them.

In this respect, since 2015 we have gradually selected areas, which we thoroughly analyzed, combining both a comprehensive legal analysis and real-life cases of our complainants. Having considered these problems, we developed possible solutions and framed them into specific recommendations set forth in respective systemic reports. After that, we introduced systemic recommendations to government bodies and began monitoring their implementation.

Government agency	Recommendations implemented	Recommendations subject to monitoring
State Architecture and Construction Inspection of Ukraine (DABI)	100% (10)	-
Cabinet of Ministers of Ukraine	67% (10)	33% (5)
National Energy and Utilities Regulatory Commission (NEURC)	57% (20)	43% (15)
Ministry of Economic Development and Trade	53% (16)	47% (14)
National Agency on Corruption Prevention	50% (2)	50% (2)
Verkhovna Rada of Ukraine	33% (10)	67% (20)
Antimonopoly Committee of Ukraine	33% (9)	67% (18)
Ministry of Regional Development, Construction, Housing and Residential Services (MinReg)	33% (13)	67% (26)
Ministry of Finance	29% (10)	71% (25)
State Export Control Service	25% (1)	75% (3)
Ministry of Agricultural Policy and Food	25% (1)	75% (3)
Ministry of Justice	23% (5)	77% (17)
State Fiscal Service	24% (10)	76% (32)
State Regulatory Service	17% (2)	83% (10)
Municipal Executive Authorities	-	100% (3)
Ministry of Ecology and Natural Resources	-	100% (4)
Other	38% (10)	62% (16)
Total*	41% (102)	59% (147)

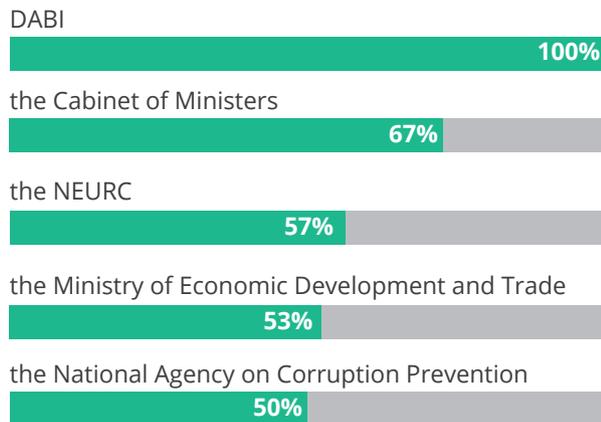
* Total number of issued and implemented recommendations is not equal to the sum of recommendations, issued and implemented by state bodies in columns (2) and (3), because frequently one issued recommendation simultaneously refers to several state bodies

In total, when calculated with recommendations issued in 2018, the Council has issued 249 systemic recommendations in 13 reports published. During 2018, state agencies took into consideration 9pp more recommendations and now the implementation rate is 41%, which means that almost every second systemic advice of the BOC was followed by its recipient.

SO FAR THE COUNCIL HAS PUBLISHED



AMONG PUBLIC AUTHORITIES, WHO DEMONSTRATED THE BEST IMPLEMENTATION RATE ARE:



All others showed an implementation rate which is below average, although numerically some of them successfully implemented ten or more recommendations each:

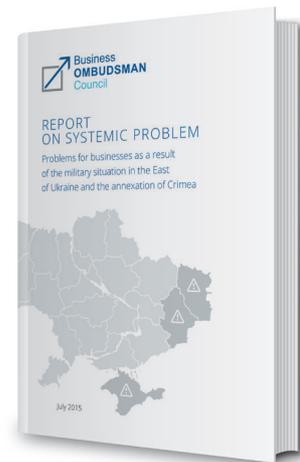
- the Verkhovna Rada (VRU),
- the Ministry of Regional Development,
- the Ministry of Finance,
- the State Fiscal Service.

The following comprises an overview of our key achievements in solving systemic issues.

Systemic Report

PROBLEMS FOR BUSINESSES AS A RESULT OF THE MILITARY SITUATION IN THE EAST OF UKRAINE AND THE ANNEXATION OF CRIMEA

JULY 2015

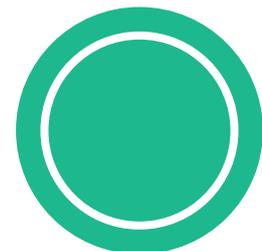


Recommendations issued in the report and implemented by state bodies:

Government agency	Recommendations implemented	Recommendations subject to monitoring
Cabinet of Ministers of Ukraine	5	0
PJSC Ukrzaliznytsia	2	0
Ministry of Finance	1	0
Ministry of Social Policy	1	0
Ministry of Infrastructure	1	0
State Security Service	1	0

Recommendations implemented

100%



Recommendations subject to monitoring

0%

In 2015, due to the Russian aggression in the eastern Ukraine and the annexation of Crimea, the Ukrainian business faced problems that had not been previously settled by the legislation. Employers couldn't reimburse costs incurred to pay an average salary to employees who have been mobilized for a "specified term" to the Anti-Terrorist Operation Zone (ATO). Following our recommendation, the Cabinet of Ministers (CMU) fulfilled all financial commitments to businesses whose employees

were mobilized. The CMU also improved the special permits system for transporting goods in and out of the ATO zone using a "one-stop-shop" approach. The state-owned enterprise Ukrzaliznytsia took back Ukrainian-owned wagons which were blocked in the annexed territory of Crimea.

We are proud that all the recommendations from our very first systemic report are already implemented, which resulted in the financial impact for the business of over UAH 2 bn.

Systemic Report

GETTING ACCESS TO ELECTRICITY

JULY 2015



Recommendations issued in the report and implemented by state bodies:

Government agency	Recommendations implemented	Recommendations subject to monitoring
National Energy and Utilities Regulatory Commission	9	0
Ministry of Energy and Coal Industry	0	1
Ministry of Regional Development	0	1

Recommendations implemented

82%



Recommendations subject to monitoring

18%

When we selected this topic for the report back in 2015, Ukraine ranked 185th in “Getting Electricity” index of the World Bank’s Doing Business rating. As the majority of recommendations we issued related to the National Energy and Utilities Regulatory Commission (NEURC), it is appealing that the regulator has already implemented all of them. In particular, the commission introduced a fixed rate for getting hooked-up to electricity and ensured that design documentation is prepared by a power utility. While doing so the regulator also simplified approval of design documentation by establishing fixed timeframes.

In addition, we recommended the Ministry of Energy and Coal Industry (MinEnergy) and the Ministry of Regional Development, Construction, Housing and Residential Services (MinReg) to improve procedure of land plots allotment through expanded use of servitudes; to prepare new and streamline existing zoning/territorial plans; and to improve procurement procedures through wider use of framework contracts by power utilities. Although implementation of these recommendations is still pending, Ukraine has, in the meantime, significantly improved its positions in “Getting Electricity” index – by 50pp to the 135th position in 2019.

Systemic Report

PROBLEMS WITH CROSS-BORDER TRADING IN UKRAINE

OCTOBER 2015



Recommendations issued in the report and implemented by state bodies:

Government agency	Recommendations implemented	Recommendations subject to monitoring
Ministry of Economic Development and Trade	13	4
State Fiscal Service	0	5
State Export Control Service	3	1
Cabinet of Ministers of Ukraine	2	1

Recommendations implemented

58%



Recommendations subject to monitoring

42%

This report was presented in the period when the Association Agreement and Deep and Comprehensive Free Trade Area signed between Ukraine and European Union (EU) should have come into force. The most important trend of that year in cross-border trade was the reorientation of export-import flows away from the Russian Federation towards the EU.

With this systemic report we aimed to update the obsolete post-soviet legislation in the sphere of international trade. Based on our recommendations state bodies eventually introduced licensing and quotas procedures corresponding to modern world standards and the WTO law. Following our recommendation, the MEDT improved the procedure of export

control over the movement of goods for both civil and military applications (dual-use). The state body reworked and reduced the single list of dual-use goods, opened access to it.

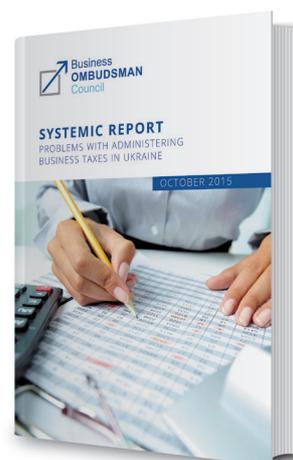
For over two years we had been actively working to abolish individual licensing regime, which was applied to businesses for minor violations, but totally paralyzed their import/export operations. Finally, this sanction was lifted with the adoption of the law "On Currency and Currency Operations".

In the report we also raised the problem of the post clearance audit, that was further developed in our systemic report on customs and which, we suppose, will be solved in terms of the SFS reform.

Systemic Report

PROBLEMS WITH ADMINISTERING BUSINESS TAXES IN UKRAINE

OCTOBER 2015



Recommendations issued in the report and implemented by state bodies:

Government agency	Recommendations implemented	Recommendations subject to monitoring
State Fiscal Service	9	14
Ministry of Finance	7	5

Recommendations implemented

39%



Recommendations subject to monitoring

61%

As recommended by the BOC, the SFS launched the taxpayer's single electronic office. The tax authority also took into consideration our recommendations and introduced a system of automatic registration of tax invoices, which was substantially improved after the relaunch in Q2 2018 and has largely been properly functioning since then. Driven by a significant number of complaints challenging failure to restore an excessive negative balance on a taxpayer's

VAT account, we recommended the SFS to fix the mechanism, which was eventually successfully implemented.

However, we keep on persuading the SFS to ensure a fair and timely administrative appeal mechanism, as well as prompt enforcement of court decisions ordering refund of taxes, and to introduce an effective system of bringing tax officials to personal liability.

Systemic Report

NATURAL MONOPOLIES VS. COMPETITIVE BUSINESS: HOW TO IMPROVE RELATIONS

JANUARY 2016

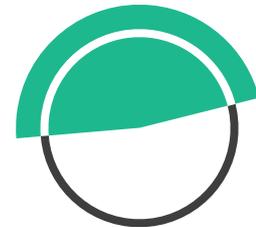


Recommendations issued in the report and implemented by state bodies:

Government agency	Recommendations implemented	Recommendations subject to monitoring
National Energy and Utilities Regulatory Commission	13	13
Ministry of Regional Development	4	7
Antimonopoly Committee of Ukraine	2	3
Local State Administration	0	2
Municipal Executive Authorities	0	2
Ministry of Energy and Coal Industry	0	1
State Property Fund of Ukraine	0	1

Recommendations implemented

47%



Recommendations subject to monitoring

53%

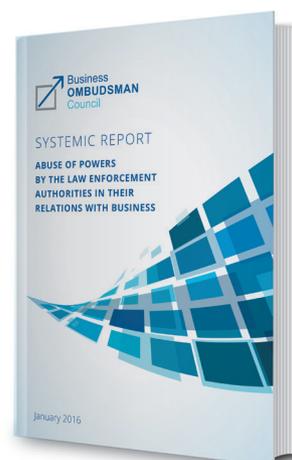
As recommended in our report, the NEURC and the MinReg improved engineering network access for electricity and gas, while the heating and water supply are still pending. The NEURC has also followed our recommendation and introduced quality indicators of utilities. The State agency created customers e-offices with the key information on energy and utilities, which used to be totally proprietary several years ago.

However, the MinReg and NEURC have not yet developed the concept of switching from cost-plus tariff method to the regulatory-asset based methodology in the field of electricity and gas supply and haven't provided all necessary measures for the implementation of incentive-based rate methodologies in the field of heating, water supply and waste management. We also recommended the NEURC and the AMCU to improve the procedure of handling customers' complaints with respect to natural monopolists. The implementation of this important recommendation is still pending.

Systemic Report

ABUSE OF POWERS BY THE LAW ENFORCEMENT AUTHORITIES IN THEIR RELATIONS WITH BUSINESS

JANUARY 2016

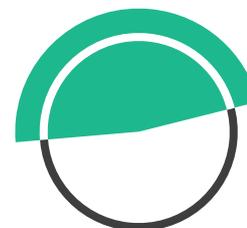


Recommendations issued in the report and implemented by state bodies:

Government agency	Recommendations implemented	Recommendations subject to monitoring
Verkhovna Rada of Ukraine	6	7
State Fiscal Service	1	0
Prosecutor General's Office of Ukraine	0	1

Recommendations implemented

47%



Recommendations subject to monitoring

53%

The famous laws MaskShowStop-1 and MaskShowStop-2 were adopted on the basis of our systemic recommendations set forth in this report. These laws helped to eliminate the most brutal attacks by law enforcement bodies on businesses. Now companies barely deal with law enforcers breaking into companies with machine guns and wearing balaclavas. Based on our recommendations actions of law enforcement officers during searches became settled – searches and court hearings are now subject to mandatory video and audio recording and advocate is entitled to be present at any stage of this procedural action. Otherwise, it is considered as a violation and evidences collected with the breach of these rules are considered inadmissible in court.

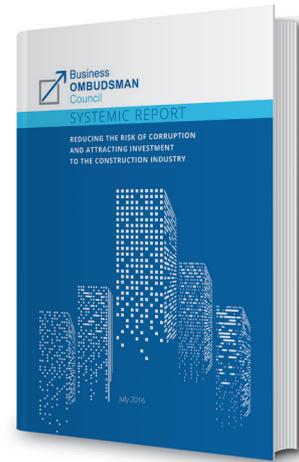
Besides, as recommended by the BOC, the Parliament prescribed maximum time limits for conducting pre-trial investigation of criminal proceedings until suspicion notice is furnished. The state body also improved the mechanism for bringing law enforcers to personal liability.

Among recommendations, which are still to be implemented, is the one to the Verkhovna Rada to prohibit a criminal prosecution for tax evasion until tax debt is deemed to be “approved/acknowledged”. Apart from it, the Parliament should prescribe maximum time limits for conducting expertize. We also maintain that the Prosecutor General's Office of Ukraine should develop methodological recommendations for persons lodging notices about committed criminal offence.

Systemic Report

REDUCING THE RISK OF CORRUPTION AND ATTRACTING INVESTMENT TO THE CONSTRUCTION INDUSTRY

JULY 2016



Recommendations issued in the report and implemented by state bodies:

Government agency	Recommendations implemented	Recommendations subject to monitoring
Ministry of Regional Development	6	8
State Architecture and Construction Inspection of Ukraine (DABI)	10	0
Ministry of Economic Development and Trade	1	4
Ministry of Justice	1	1
Ministry of Finance	1	0

Recommendations implemented

58%



Recommendations subject to monitoring

42%

Overregulation, red tape and costs related to getting the necessary permits to carry out a construction project have both restricted commercial activity and led to widespread corrupt practices. The list of typical issues received by the BOC included abuses related to the permitting construction documents. That is why the BOC supported a range of activities which changed the approach to the regulation in this sphere.

As embodied in the systemic report, the DABI improved inspections methods and made a schedule of planned visits. The state inspection also simplified the procedure of obtaining construction permits. The MinReg together with

the DABI provided access to information on urban development, architecture and territorial planning, that significantly changed the conditions in the field of issuing building permits. Now developers can see the whole construction process from the initial application, to commissioning the object in their e-offices. The MEDT is actively working on our recommendation related to improving public procurement procedures in construction.

However, the recommendation to harmonize conditions for placing building materials on the market in line with EU standards got stuck in the Parliament. The MinReg should also improve the procedure of obligatory local development contribution.

Systemic Report

CHALLENGES AND PROBLEMS IN THE SPHERE OF COMPETITION PROTECTION AND OVERSIGHT

NOVEMBER 2016



Recommendations issued in the report and implemented by state bodies:

Government agency	Recommendations implemented	Recommendations subject to monitoring
Antimonopoly Committee of Ukraine	8	14
Verkhovna Rada of Ukraine	1	9
Cabinet of Ministers of Ukraine	2	1
State Property Fund of Ukraine	0	1

Following our recommendation, the AMCU has drafted the National Competition Development Program and we anticipate that it will be adopted by the CMU 2019. The AMCU now specifies main priority areas for the forthcoming year (including markets to be studied) in its annual reports and publicizes the key content of issued individual recommendations in selected areas. Besides, necessary secondary legislation in the sphere of state aid was adopted and the AMCU's respective institutional capacity developed.

Main pending recommendations contemplate the Parliament to set specific time limits for investigation of cases alleging breach of competition and to introduce modern leniency regime. We also recommend that AMCU splits its investigatory and decision-making authority and ensures existence of the Methodology for Calculating the Amount of Fines in the form of a proper legislative act.

Recommendations implemented

33%



Recommendations subject to monitoring

67%

Systemic Report

CHALLENGES FOR GOVERNMENT AND BUSINESS IN DEALING WITH LOCAL GOVERNMENT

FEBRUARY 2017



Recommendations issued in the report and implemented by state bodies:

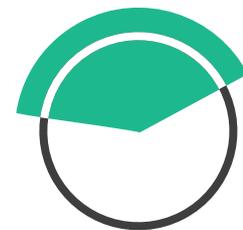
Government agency	Recommendations implemented	Recommendations subject to monitoring
Ministry of Regional Development	5	7
Ministry of Justice	1	4
Ministry of Environment and Natural Resources	1	3
Ministry of Agricultural Policy and Food	1	3
State Regulatory Service	1	3
Verkhovna Rada of Ukraine	1	3
Ministry of Finance	1	0
Cabinet of Ministers of Ukraine	1	0
Ministry of Economic Development and Trade	1	1
Oblast State Administration	0	1
Municipal Executive Authorities	0	1
Kyiv Municipal State Administration	1	0
Association of Ukrainian Cities	1	0

In this report we provided recommendations to a wide range of state bodies, but mainly to the Ministry of Regional Development. Following our advice, state bodies improved the quality and level of administrative services provision. Local councils enhanced land lease procedures. As we prescribed, a set of actions have been made to remove legal gaps and foster voluntary unification of territorial communities.

Among still pending recommendations is the one for the MinReg to finalize drafting regulations governing the decentralization in all spheres of administrative and social services provision. The Parliament should also establish a constitutional basis for regulating the abuse of powers by local councils.

Recommendations implemented

41%



Recommendations subject to monitoring

59%

Systemic Report

COMBATTING RAIDERSHIP: CURRENT STATE AND RECOMMENDATIONS

JULY 2017



Recommendations issued in the report and implemented by state bodies:

Government agency	Recommendations implemented	Recommendations subject to monitoring
Ministry of Justice	4	9
National Agency on Corruption Prevention	2	2
Cabinet of Ministers of Ukraine	0	1
Main Investigation Department of the National Police of Ukraine	0	1
Prosecutor General's Office of Ukraine	0	1
Ministry of Regional Development	0	1
State Judicial Administration	0	1
Verkhovna Rada of Ukraine	2	0
Administration of the President	2	0
GeoCadastre	1	0

As suggested in the report, the Ministry of Justice ensured full synchronization of data between the Registry of Real Rights and the State Land Cadastre. The full technical interaction between the Registry of Real Rights and the Unified State Registry of Court Decisions is to be implemented, though. Following our recommendations, the Ministry of Justice now publicizes results of off-site documentary audits of state registrars. Jurisdictional conflicts in court disputes pertaining to the sphere of state registration were also resolved.

Apart from it, in order to prevent raider attacks we promote the idea of introducing the system of notification of owners of corporate rights about pending registration actions. The General Prosecutor's Office and the Ministry of Interior should also develop methodological recommendations for law enforcers focused on investigation of the most common instances of raidership.

Recommendations implemented

36%



Recommendations subject to monitoring

64%

Systemic Report

CONTROL OVER CONTROLLERS: STATUS OF CONTROL BODIES REFORM IMPLEMENTATION

JANUARY 2018



Recommendations issued in the report and implemented by state bodies:

Government agency	Recommendations implemented	Recommendations subject to monitoring
Ministry of Economic Development and Trade	1	6
State Regulatory Service	1	7
Cabinet of Ministers of Ukraine	1	1

Recommendations implemented

18%



Recommendations subject to monitoring

82%

We consider the reform of the supervisory authorities as one of successful initiatives of the Ukrainian Government. However, we are convinced that changes will be even more effective when state bodies implement our recommendations. Our key task in this report was to advise state bodies on developing criteria for assigning companies to different risk groups. We suggested setting the frequency of planned state inspections in accordance with these criteria. So far, criteria for risk assessment were approved in 85 areas of state supervision and frequency of planned state inspections was approved in 26 of them.

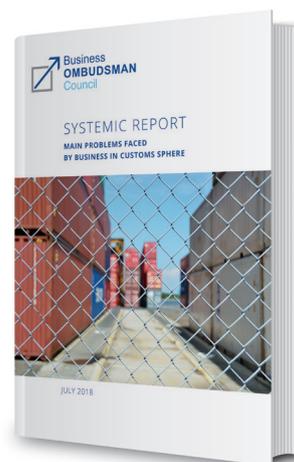
A moratorium on inspections was introduced for government agencies to prepare documents and finalize procedures related to inspections, and for entrepreneurs to put all business processed in their companies in order. Until all procedures of state bodies are debugged, inspections cannot be resumed.

Among unfulfilled recommendations, we suggested strengthening the powers of the DRS regarding the impact on those government agencies that do not comply with its instructions.

Systemic Report

MAIN PROBLEMS FACED BY BUSINESS IN CUSTOMS SPHERE

JULY 2018



Recommendations issued in the report and implemented by state bodies:

Government agency	Recommendations implemented	Recommendations subject to monitoring
Ministry of Finance	1	19
Ministry of Justice	0	2
State Fiscal Service of Ukraine	0	13
Security Service of Ukraine	0	1
Ministry of Internal Affairs	0	1
Verkhovna Rada of Ukraine	0	1

The Ministry of Finance is currently implementing our recommendations aimed at streamlining refund of excessively paid customs duties and fees. The Ministry of Finance and the SFS also set as a priority a creation of a public register of decisions on goods classification, based on the EU best practices. We also believe that it's important to ensure a gradual shift of the primary form of customs control from the stage of customs

clearance to the post clearance audit (except for cases when the fiscal body has reasonable doubts) along with implementation of "authorized economic operators" concept. A comprehensive reform of legal framework governing administrative liability for infringing customs rules and protection of intellectual property rights while moving goods across the border are also pending.

Recommendations implemented

4%



Recommendations subject to monitoring

96%

Systemic Report

BUSINESS FOCUS ON LABOR-RELATED ISSUES

JANUARY 2019*

In our recent report, we issued recommendations on how to enhance the work of the State Labor Service, how to improve the situation for foreign citizens who want to conduct business or work in Ukraine. In the report we analysed the effectiveness of labor regulation, compliance with labor laws, and the prevention of illegal employment. We also studied certain aspects of professional development and issuing of permits, inter alia, to foreigners.



** With respect to the recently issued report we have not yet monitored the status of recommendations implementation.*

So far, 41% of our systemic recommendations has been implemented by state bodies. This ratio is lower than the level of recommendation implementation at the level of specific cases (94%). We see the following reasons for this:

- As systemic recommendations are, generally, quite complex, – their resolution often requires involvement of several counterparties, in particular, various state bodies.
- Their implementation often requires changes either in legislation or in regulations, which naturally takes more time.
- We also observe strong resistance of some government agencies on selected issues. Often, recommendations implementation requires changes of existing decision-making mechanisms and abolition of certain schemes that appear to be either corrupt or legally dubious. Although the Council regularly meets state bodies to discuss such problems and

spends hours to follow-up on agreed actions steps, – as too many government officials might be interested in keeping current state of affairs and the BOC's recommendations are non-binding in nature, – suggested changes remain pending.

- As some recommendations are purely technical and their implementation is not considered by state bodies as a tool to popularize their acts or improve political reputation, – they are simply put aside.

We highly appreciate all the positive changes introduced by the state bodies based on our systemic recommendations. We consider implemented recommendations as “preventative” measures and procedures aimed at creating more clarity for businesses, fewer opportunities for misuse by public officials, and ultimately, fewer complaints to be lodged with the BOC. We are confident that if all of the BOC's recommendations were implemented, Ukraine could improve its position in the Doing Business rating even more significantly.

4

**COOPERATION
WITH STAKEHOLDERS**



Although our Office gathers and reports unique statistics, our work is fundamentally about relations – helping entrepreneurs resolve their issues by connecting them with public officials and communicating their message. We hear from thousands of people doing business in Ukraine each year. Many are frustrated with the bureaucracy of public sector. Our goal is to solve specific business problems. In order to do this, we encourage state bodies, leading Ukrainian business associations, international organizations and media to collaborate in a mutually beneficial way.

4.1. Cooperation with government agencies

The BOC has 9 Memoranda of Cooperation with:

the State Fiscal Service
 the State Security Service of Ukraine
 the Ministry of Ecology and Natural Resources
 the State Regulatory Service
 the Ministry of Justice
 the National Anti-Corruption Bureau
 Kyiv City State Administration
 the National Police and the National Agency on Corruption Prevention.

Expert Groups are a platform to review particular complaints openly and transparently as well as to improve legislation governing business activities and remove barriers that inhibit doing business in Ukraine.

	Number of expert group meetings	Number of cases addressed
State Fiscal Service	33	142
National Police	6	65
Prosecutor's Office*	6	43
State Security Service	6	23
Ministry of Ecology and Natural Resources	5	24
Ministry of Justice	3	7
Ministry of Finance*	2	1
Kyiv City State Administration	2	9
	63	314

* Expert groups work on informal basis

4.2. Regional compliance events: Business Integrity: Join, Implement and Win

In July-October 2018, the Business Ombudsman Council supported regional seminars for state and private enterprises "Business Integrity: Join, Implement and Win". The series of events was organized by the UNDP in Ukraine and the Ukrainian Network of Integrity and Compliance with the support of the National Agency for Prevention of Corruption.



Representatives of private, state – and municipality owned companies, local state authorities, civil society organizations and media joined the discussion of corruption combating issues and doing business transparently in regions.

The participants not only had a chance to learn theories on how transparent business can help fight corruption, but also participated in the training aimed at improving business integrity and compliance implementation skills.

The BOC believes that best practices in implementing anti-corruption programs presented by successful companies will encourage state and private enterprises to enhance their business integrity.



4.3. 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

Since launch of operations, the Business Ombudsman Council has been cited in the media

22 500+
times

99%
mentions being
positive
and constructive

*(based on media
monitoring by
ECOSAP).*

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.



The absolute majority (92%) of mentions was online, while the remaining citations were evenly distributed among the information agencies (4%) national and regional press (2,5%), television and radio (1,5%).

The estimated advertising value of the articles since launch of operations now exceeds

**UAH 16.2
million**

based on newspaper advertising rates, circulation and page display.

In 2018, we arranged appearances of our speakers on TV



and radio appearances



Our interviews were published in the leading Ukrainian media:



We organize roundtables on a quarterly basis and invite journalists to see and feel how the Business Ombudsman works.

SOCIAL MEDIA

We also actively use social media to get our message through.



Facebook

@BusinessOmbudsmanUkraine)

4000+ followers so far (no paid ads, organic reach only) getting the message in front of around 10,000 people in each post. We use Facebook to share information about our Office, our work, and news of interest in the oversight field.



YouTube

@Рада бізнес-омбудсмена

We produce useful and emotional videos on submitting complaints, cast success stories of our complainants, share TV slots with our speakers. In 2018, we added 50 new videos to our channel and gained over 2000 views. We believe that this social media enables us to build trust and authority with our audience.



LinkedIn

@Business Ombudsman Council

We constantly keep the business community updated about our recent developments.



Twitter

@Bus_Ombudsman

We use this channel to quickly get our message out for the English-speaking audience.



Instagram

@business_ombudsman_council

Instagram account enables us to display our work environment and gives a great opportunity to connect on a deeper level with our online audiences by sharing with them what's important to our company's core values.

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.



Over

123 000

page views of our website were registered by Google Analytics in 2018.

There were recorded

39 283

sessions, held by visitors from almost 100 countries all over the world.

In 2018, we introduced the following updates to BOC website:

IMPLEMENTATION STATUS OF ISSUED SYSTEMIC RECOMMENDATIONS

We added a new section with the implementation status of issued systemic recommendations. Users can see how a certain state body follows the Council's recommendations, at which stage of review and implementation they currently are.

MEDIA SECTION

Media section was updated to share new interesting content, featuring our employees

VIDEO PRODUCTION

We enhanced the format of sharing success stories by capturing video cases with our Complainants.

STATISTICS

An interactive section with statistics of received complaints was created. The new tool allows users to independently and promptly find out key indicators of the Council's operations:

Who are the complainants and complainees?

What is the portrait of complainants by the size of business, the origin of capital, the industries in which they operate?

What are the Council's financial and non-financial results?

OUTREACH

The Business Ombudsman, his Deputies and other BOC's employees speak at various conferences, forums and business meetings on a regular basis.

In general, our team attended more than

200

business events in 2018, where we:

presented the activities of the BOC to the business community of different countries, in particular embassies

participated in topical discussions on tax issues, activities of law enforcement bodies and other subjects, addressed to us by Complainants

attended focused events of international organizations on the formation of a favourable business environment in Ukraine

On a separate note, we would like to highlight some international and important Ukrainian business events in which we took part this year:

INTERNATIONAL EVENTS:



24.05

Balkan Compliance & Ethics Forum, in Sarajevo organized by West East Forum for Ethics and Compliance and American Chamber of Commerce

27.06

Ukraine Reform Conference "Driver for change" Copenhagen, Denmark organized by Reforms of Ukraine and Danish Embassy



29.10-01.11

Business Intergity Seminar on SOEs for Central Asia, organized by EBRD and OECD in Kyrgyzstan



14-15.11

Collective Action Conference: "Evolution to Revolution", organized by the International Centre for Collective Action at the Basel Institute on Governance

SELECTED UKRAINIAN EVENTS:



21.02

Kyiv Post CEO Breakfast
Discussion – Judicial Reform –
Is It Real?



14.03

March – The V-th All-Ukrainian City
Development Institutions Forum
“Investment Attraction and CDI’s”



15.03

VII International Competition
Policy Forum



27.03

Business meeting “Effective
Anti-Raiding. How to Protect
Business”, organized
by the Ministry of Justice

29.03

Round table discussion “100 days
of the Law Stop Maski Show”,
organized by Business Journal



29.03

Policy talks discussion “Building
a Free Economy – is there
a Place for Power Bodies in
it?”, organized by the Ministry
of Finance



29.03

IX Annual conference: “Results
of 2017 and prospects of 2018”,
organized by PwC LLC



30.03

III International Business
Protection Forum, organized
by Yuridicheskaya Praktika (Legal
Practice) law newspaper



13.04

V Tax Forum, organized
by Yuridicheskaya Praktika

24.05

International Investment Forum
“Ternopil region INVEST 2018”
organized by Ternopil Regional
State Administration

25.05

National Investment Council
Meeting with the President
of Ukraine organized by
Administration of the President
of Ukraine



30.05

IV Ukrainian Antitrust Forum,
organized by Yuridicheskaya
Praktika



30.05

UNIC First Members’ Annual
Meeting organized by UNIC

**31.05**

CEO Breakfast – Discussion “Has the law stopped pressure on business” organized by Kyiv Post

**10.07**

CEO Breakfast “Ukraine on the Road to Prosperity”, organized by the Kyiv Post

**04.09**

Entrepreneur’s Day, organized by the State Regulatory Service and Chamber of Commerce and Industry of Ukraine

**11.06**

Meeting of the Inter-Agency Commission on the Ensurance by Law Enforcement Agencies of Rights and Legitimate Interests of Individuals organized by the Cabinet of Ministers of Ukraine

**26.08**

Workshop “Tax audits of small and medium business: preparation, exercise, appeal”, organized by the Ukrainian Chamber of Commerce and Industry

**13.09**

Conference UKRAINIAN PETROLEUM MARKET 2018, organized by Consulting company UPECO and NefteRynok

**14.06**

VI International Judicial and Legal Forum, organized by “Yuridicheskaya Praktika”, the State Judicial Administration of Ukraine, OSCE and the Ministry of Justice of Ukraine

**20.07**

A Seminar on “Certification How and Why?” organized by the Ukrainian Network of Integrity and Compliance and Arzinger law firm

**19.09**

III Global Compliance Forum, organized by Yuridicheskaya Praktika

26.06

Second Annual National SME Development Forum organized by the Ukrainian Chamber of Commerce and Industry

**25.09**

Seminar "Reforms in Ukraine: A View of Governmental Bodies, Business and Civil Society" organized by the College of Europe jointly with the Center for Adaptation of the Civil Service to the Standards of the European Union

**21.11**

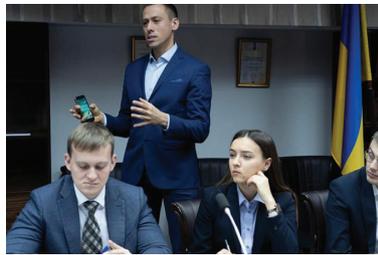
LHS Discussion Hub "The Limits of Intervention of Administrative Courts in the Discretion of Executive Bodies"

**05.12**

Forum "Kyiv region Investment 2018: Competition for Investment Resources", organized by the Bila Tserkva Strategic Development Agency jointly with Kyiv Oblast State Administration and supported by UkraineInvest

**31.10**

Dialogue between state authorities and business: meeting with the President

**27.11**

Meeting with Oleksandr Kolotilin, Acting Head of the State Service of Ukraine for Geodesy, Cartography and Cadastre, organized by American Chamber of Commerce

**07.12**

Conference: De-Corruption of Ukraine, organized by the Transparency International Ukraine

**09.11**

II Tax Forum "Tax & Business Talks" organized by the Association of Attorneys of Ukraine

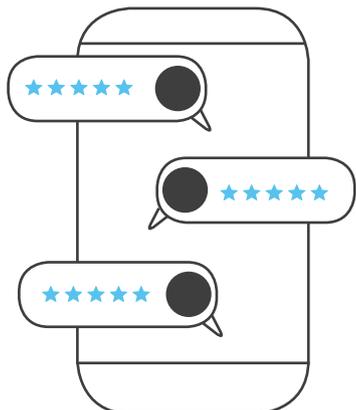
**04.12**

Workshop for members of the Ukrainian Confederation of Builders on the work of the Business Ombudsman Council

**08.12**

International Summit "Collective Action of the Private Sector for Combating Corruption", organized by the Center for International Private Enterprise

YOUR FEEDBACK



In the reporting year, we received

669

feedback forms from our complainants, which is one third more, than in 2017.

Complainants assess our work based on several criteria:

- client care and attention to the matter
- understanding the nature of the complaint
- quality of work product

They also indicate what they are satisfied with most in dealing with us and what areas need improvement.



of complainants said they were very satisfied/satisfied with working with us.

“Your support testifies the BOC’s indifferent attitude to problems of development and conducting transparent business in Ukraine, understanding of how important support and protection of enterprises before state bodies is.

Stanislav KOVALENKO,
Director of PROEKTGAZBUD, LLC

“We are confident that the Business Ombudsman Council will continue promoting transparency of the activities of public authorities and preventing violations of the rights and legitimate interests of business entities

Lyudmyla ZAITSEVA
Director of LLC Timefish, LLC

“We highly value an important task of implementing integrated monitoring and control over the activities and compliance of regulatory authorities with the requirements of legislation, corruption and the development of an enabling environment for doing business

Oleksiy KOTSIUBENKO
Director of Ember Ukraine, LLC

“Good luck to the Business Ombudsman Council’s team in improving transparency of Ukrainian state bodies work

Vyacheslav KOLESNIKOV
Director of OTS-Ukraine, LLC

 We express gratitude to your team for professionalism and efforts made
Khrystyna MYGAL
Managing partner of JSC Gradum

 We thank the Business Ombudsman Council for help
Volodymyr POSTOVYI
Chairman of the Board Kamianets-Podilsky PJSC Gipsovik

 We express our sincere respect to your team for the active and unchanging position in protecting the legitimate rights and interests of Ukrainian business.
Irina VARAGASH
President of the company, FDI Econia, LLC

 The Business Ombudsman Council as a modern and democratic institution, gives hope for the further genuine establishment of entrepreneurship freedom principle in relations between the business environment and state bodies.
Sergey ZELENKO
General Director of Institute for radio-measuring apparatus LLC

 The Business Ombudsman Council has made efforts to solve this issue, which is extremely important for the majority of VAT payers of Zaporizhzhya region
Svetlana GORDEVSKAYA,
Head of Legal Department of PJSC Melkom

 We express our deep respect and wish you further success in your hard work to protect the rights of honest business in Ukraine
Vyacheslav KOLOSVETOV
General Director of CHS, LLC

 We express our gratitude to the Business Ombudsman Council for fruitful cooperation and mutual understanding
Nadiya VORONYTSKA-GAIDAK

 Thank you for your reliable partnership! We wish you to develop dynamically without losing conquered positions
Pavel SHOLUDKO
Director of ICS-TECHNO, LLC

 The Business Ombudsman Council gives us strength and inspiration to uphold our legal rights, thus contributing to construction of civilized Ukraine as an advanced and prosperous state.
Volodymyr PEDAN
Director of PSP Agrofirma Kolos

 We express our sincere gratitude for your assistance in solving the problem issue and look forward to further cooperation!
Vasyl MARTSINKOVSKY
Director of TRIZ LTD

 We would like to sincerely thank the Business Ombudsman Council for helping us to resolve the issue. We hope that your organization will continue to thrive and assist in solving the issues of enterprises and entrepreneurs of our country.
Management of Yagotinsky fish farm, LLC



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OMBUDSMAN
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