

Report name	Issued recommendations	Execution status
Systemic report "Abuse of powers by the law enforcement authorities in their relations with business"	<p>To prohibit criminal prosecution of person for tax evasion until tax liability is finally “approved/acknowledged” (i.e., as foreseen in Section 3.5.6. of the Coalition Agreement between the Factions of the Deputies in the Verkhovna Rada of 8th Convocation, being an integral part of the Program of Activity of the Cabinet of Ministers of Ukraine (the “Coalition Agreement”). In order to do so the Council suggests amending Articles 212 and 212-1 of the CCU to expressly provide that “actual non-arrival of money to budgets or state earmarked funds” (in Article 212 of the CCU) and “actual non-arrival of money to mandatory state social insurance funds” (in Article 212-1 of the CCU) means “failure to pay the sums of approved/acknowledged tax obligation in compliance with time limits, established by law”. Verkhovna Rada of Ukraine</p> <p>To amend Section 2.5 of the Methodological Recommendations Regarding Procedure of Cooperation between Divisions of the State Fiscal Service while organizing, carrying out and implementing materials of audit of taxpayers, approved by the Order of the SFS of Ukraine No.22, dated 31 July 2014, to ensure that materials of tax audit can be transferred to the investigatory units for financial investigations (i.e., tax police) only after final acknowledgement of the tax liability under the framework of administrative and/or judicial procedure (in case taxpayer sought judicial assistance - from the date when court decision entered into force). State Tax Service of Ukraine</p> <p>To amend legislation to increase the threshold amount of actual sums due to be paid to the budget (arising from the unpaid taxes, levies and unified social tax), triggering treatment of such action at the part of taxpayer as criminal offence. Verkhovna Rada of Ukraine</p> <p>To develop methodological recommendations and explanations for the persons lodging applications or notices about committed criminal offence. Among other things, such guidelines shall emphasize on the need to comprehensively and accurately describe circumstances of the committed criminal offence as well as give proper legal qualification of the committed crime (i.e., refer to the particular corpus delicti in the CCU and specify place, time, persons and other factual circumstances related to a particular crime). Prosecutor General’s Office of Ukraine</p> <p>To amend Article 214 of the CPCU to impose a duty on investigator/prosecutor to notify an applicant about their receipt of application or notification about committed criminal offence, registration of the respective data with the URPTI and commencement of pretrial investigation based on such application/notification. Verkhovna Rada of Ukraine</p> <p>To amend Article 214 of the CPCU to impose a duty on investigator/prosecutor to explain to an applicant his/her right to seek court protection by lodging lawsuit challenging investigator's inactivity in case of the latter's failure to register data with the URPTI, as foreseen by Article 303 of the CPCU Verkhovna Rada of Ukraine</p> <p>To amend Article 219 of the CPCU to prescribe maximum time limits for conducting pre-trial investigation of criminal proceedings until suspicion notice is furnished to a person. Such time limits could be extended subject to consent of the superior prosecutor. Currently, time limits for conducting pre-trial investigations are foreseen by the CPCU only starting from the day when a person is furnished with a suspicion notice. Verkhovna Rada of Ukraine</p>	<p>In process — comments: The following draft laws has been prepared: The Draft Law “On Amending the Tax Code of Ukraine regarding special aspects of criminal proceeding in the tax relations and administration of taxes and levies” No.3448 dated 10 November 2015. On 21 April 2016 the aforesaid draft law was sent for further review by the Parliamentary Committee on Taxation and Customs Policy.ii. On 20 March 2018 the Draft Law “On National bureau of financial security of Ukraine” No.8157 was sent for consideration to the relevant committee.</p> <p>Implemented — comments: The BOC's recommendation has been implemented via adoption of the SFS' Order dated 18 July 2016 No.633 "On amending the SFS's order dated 31 July 2014 No.22"</p> <p>Implemented — comments: On 18 September 2019, the Verkhovna Rada adopted the Law "On Amendments to the Criminal Code of Ukraine and the Criminal Procedure Code of Ukraine on Reducing Pressure on Business". The law decriminalizes fictitious entrepreneurship (provided for in Article 205 of the CC) and raises the thresholds for bringing individuals to justice under Article 212 of the CC. The threshold for criminal proceeding initiation increased from 960 500 UAH to 2 881 500 UAH.</p> <p>Not started</p> <p>Implemented — comments: The BOC's recommendation has been implemented via adoption the Law of Ukraine "On amending certain laws regarding enforcement of the rights of the parties to the criminal proceeding and other persons by the law enforcement authorities during the pre-trial investigation" dated 16 November 2017 No.2213-VIII.</p> <p>Not started</p> <p>Implemented — comments: The BOC's recommendation has been implemented via adoption the Law of Ukraine dated 03 October 2017 No.2147-VIII.</p>

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	<p>To provide persons authorized to perform the organizational/management functions (for example, a CEO, a financial director, a chief accountant, a member of the board of a joint stock company) on behalf of a legal entity and regarding which investigative actions are conducted, the certain procedural rights, envisaged under the Article 42 of the CPCU ("Suspect, Defendant") for persons who have been notified of suspicion. The foregoing idea might, for instance, be fulfilled by expanding the scope of persons, who fall under the category of "parties" or "participants" of the criminal proceeding, by introducing respective amendments to the Chapter 3, §5, Article 3 of the CPCU ("Court, Parties and Other Participants of the Criminal Proceeding").</p> <p>Verkhovna Rada of Ukraine</p>	In process
	<p>To amend Article 308 of the CPCU to enable third parties, whose rights are being restricted and/or violated in course of the pre-trial investigation (in whose relation a pre-trial investigation is taking place) with the right to challenge failure to observe reasonable time limits to the superior prosecutor. Currently only suspected person, accused person and victim are vested with such right.</p> <p>Verkhovna Rada of Ukraine</p>	<p>Implemented — comments: The BOC's recommendation has been implemented by adopting the Law of Ukraine "On amending certain laws to ensure enforcement of the rights of the parties to the criminal proceeding and other persons by the law enforcement authorities during the pre-trial investigation" dated 16 November 2017 No.2213-VIII.</p>
	<p>To restrict the time duration of temporary access to documents (seizure) that do not themselves contain signs of a crime by 3 months. To avoid the risk of abuse (whereby seizure of the originals of documents is used to inflict pressure on business), it is important to ensure that length of time, while the originals of documents could be seized by investigation authorities, should not directly depend upon the duration of pre-trial investigation. To attain this goal, Chapter 15 of the CPCU shall be amended to establish maximum time limits while investigation authorities are entitled to have access to the originals of such documents.</p> <p>Verkhovna Rada of Ukraine</p>	Not started
	<p>The CPCU shall be comprehensively amended to provide for a special procedure of seizure of digital data, which, inter alia, would not contemplate seizure of computer hardware and would allow avoiding stoppage in the work of businesses due to seizure of servers. Hence, in the Council's view, it is appropriate to introduce respective amendments to the Chapter 20 ("Investigatory actions") of the CPCU.</p> <p>Verkhovna Rada of Ukraine</p>	<p>Implemented — comments: The BOC's recommendation has been implemented via adoption of the Law of Ukraine "On amending certain laws to ensure enforcement of the rights of the parties to the criminal proceeding and other persons by the law enforcement authorities during the pre-trial investigation" dated 16 November 2017 No.2213-VIII (Article 168 of the CPCU).</p>
	<p>To amend the Law of Ukraine "On Judicial Expertise" to establish that standard time limits for conducting expertise shall be 3 months subject to extension by an investigatory judge/court, if necessary. The Council also proposes amending the Code of Ukraine On Administrative Violations to establish expert's liability for the breach of maximum time limits, foreseen for conducting expertise.</p> <p>Verkhovna Rada of Ukraine</p>	In process
	<p>To consider amending Article 236 of the CPCU to introduce mandatory video recording of such investigatory action as search. In the Council's view, it might be appropriate to provide that such video recording shall commence when the manager of the entity is furnished with the resolution issued by an investigatory judge sanctioning such search and shall last until he/she is provided with the copy of the protocol of search. It is also worth providing that only that evidence, whose collection was video recorded, is admissible.</p> <p>Verkhovna Rada of Ukraine</p>	<p>Implemented — comments: The BOC's recommendation has been implemented via adoption of the Law of Ukraine "On amending certain laws to ensure enforcement of the rights of the parties to the criminal proceeding and other persons by the law enforcement authorities during the pre-trial investigation" dated 16 November 2017 No.2213-VIII (Article 104 of the CPCU).</p>
	<p>To amend Articles 168, 169, 236 and 237 of the CPCU to oblige public prosecutor to verify whether seizure of objects and documents made by investigator was legal and to inform the person, whose property objects have been seized, accordingly - to be complied within 24 hours from the moment when assets and documents has been seized by the investigator.</p> <p>Verkhovna Rada of Ukraine</p>	Not started
	<p>To improve mechanism of personal liability of employees of law enforcement agencies for violations committed while carrying out investigatory actions. In particular, in addition to the existing Disciplinary Charters (Codes) of the Public Prosecutor's Office of Ukraine and Draft Law of Ukraine "On Disciplinary Charter of the National Police", both of which represent internal institutional mechanisms, to consider the opportunity of involving NGOs to the work of such disciplinary commissions.</p> <p>Verkhovna Rada of Ukraine</p>	<p>Implemented — comments: The BOC's recommendation has been implemented via adoption of the Law of Ukraine "On amending certain laws to ensure enforcement of the rights of the parties to the criminal proceeding and other persons by the law enforcement authorities during the pre-trial investigation" dated 16 November 2017 No.2213-VIII.</p>