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



FOREWORD BY THE BUSINESS OMBUDSMAN

Dear Friends, Colleagues and Partners,

I'm pleased to present the Business Ombudsman Council's 12th quarterly report, for Quarter 1, 2018. In this reporting period, we took further steps to improve Ukraine's business environment

The Council received a total of 646 complaints over January-March 2018, the second largest quarterly number since we launched operations. We closed 509 cases during this quarter, the largest number in the Council's history. Of these, two thirds were closed with the immediate desired result for the complainants, either financial or non-financial. We are proud to have achieved the best timeframe for conducting investigations as well – 59 days. This is an absolute record for us, and one third less even than envisaged by our Rules of Procedure. Our team has recovered nearly UAH 11.5 billion from government agencies since the BOC was launched.

This quarter, our portfolio of complaints became even more concentrated, with 94% of appeals related to 4 groups of state agencies. The majority of appeals, 69%, were due to actions by the State Fiscal Service. Notably, the subject of tax invoice suspensions alone constituted 47% of all complaints. There was also an increase, to 14%, in the number

of appeals against law enforcement agencies, and we decided to analyze it in more detail: you will find an issue-based section on this in our report. Other main agencies that were the focus of complaints were state regulators, 8%, and local councils, 3%.

As for complainants' portrait – 89% of companies lodging complaints with the BOC were local and 76% of them SMEs. The most active industries were wholesalers (30%), manufacturers (15%), agri-business (14%), property developers (8%), and private entrepreneurs (6%). More than one third of complaints originated in Kyiv, but the capital's share is decreasing in favor of the oblasts. The most active oblasts were Dnipropetrovsk (12%), Odesa (8%), Kyiv (8%) and Kharkiv (8%).

It's important to all of us that the figures provided in this report illustrate the key problems facing companies that are doing business in Ukraine. Having diagnosed these issues and the most problematic areas, we can offer suitable options for a resolution. For the Council's part, we would like state agencies to listen to properly presented cases and demonstrate their willingness to promote positive changes in the country.

Algirdas ŠemetaBusiness Ombudsman

Q1 AT A GLANCE

646 complaints received



509 closed cases

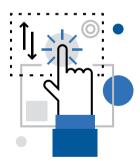
UAH 195 mn

direct financial impact



Systemic report "Control over Controllers" published

93% of recommendations to state bodies implemented





98% of complainants are satisfied with working with the BOC

TOP-6 SUBJECTS OF COMPLAINTS

67%

Tax issues

14%

bodies

enforcement

Actions of law

Actions of state regulators

8%

3%

Actions of local councils

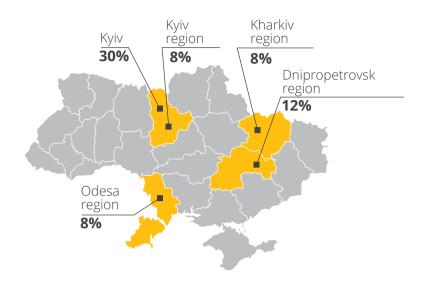
2%

Ministry of Justice

2%

Legislation drafts/ amendments

TOP-5 MOST ACTIVE REGIONS



TOP-5 INDUSTRIES



30%

Wholesale and Distribution



15%

Manufacturing



14%

Agriculture and Mining



8%

Real Estate and Construction



6%

Individual Entrepreneur

SIZE OF BUSINESS



76%



Small/Medium



24% Large

FOREIGN/LOCAL



89% Local businesses

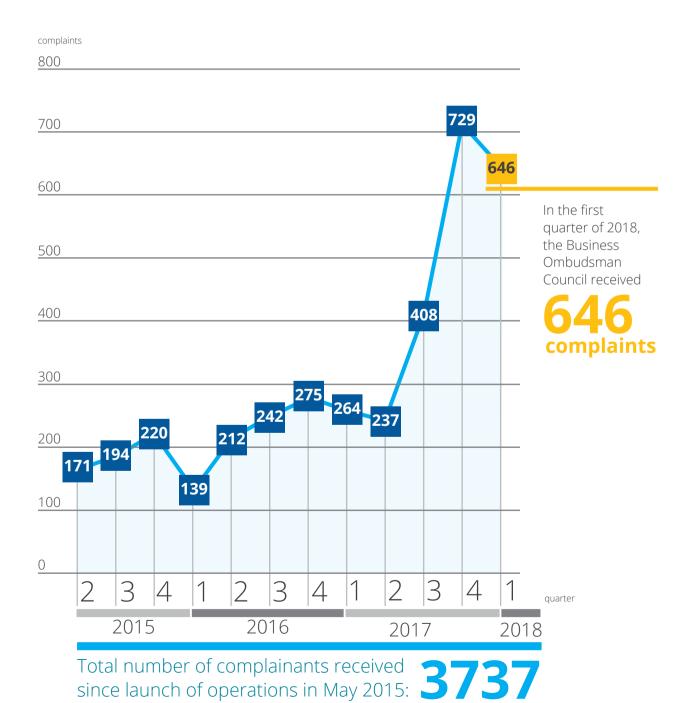


Foreign

COMPLAINT TRENDS

1.1. Volume and nature of complaints received

(Clause 5.3.1 (a) of Rules of Procedure)



	Q1 2018	Q4 2017, % change	Q1 2017, % change
TAX ISSUES	433	-17%	+261%
Tax VAT invoice suspension	305	-17%	-
Tax inspections	58	-5%	+71%
Tax VAT electronic administration	20	-53%	+150%
Tax criminal cases	20	+25%	+25%
Tax termination of agreement on recognition of electronic reporting	7	+75%	-81%
Tax VAT refund	5	-50%	-75%
Tax termination/renewal/refusal of VAT payers registration	2	0%	-33%
Tax other	16	-16%	+60%

ACTIONS OF STATE REGULATORS	49	+4%	+75%
Other state regulators AMCU	1	-67%	0%
Other state regulators StateGeoCadastre	1	-91%	-80%
Other state regulators DABI	1	-75%	-83%
Other state regulators	46	+59%	+188%

PROSECUTOR'S OFFICE ACTIONS	33	+50%	+120%
Prosecutor's Office criminal case initiated	10	-9%	+233%
Prosecutors' Office procedural abuse	9	+200%	+80%
Prosecutors' Office inactivity	9	+29%	+125%
Prosecutors' Office corruption allegations	0	-	-
Prosecutors' Office other	5	-	+150%

NATIONAL POLICE ACTIONS	27	0%	+125%
National Police inactivity	10	+50%	+233%
National Police procedural abuse	9	-10%	+29%
National Police criminal case initiated	3	-50%	+50%
National Police corruption allegations	3	-40%	-
National Police other	2	0%	-

ACTIONS OF LOCAL COUNCILS/MUNICIPALITIES	18	-31%	-14%
Local councils/municipalities land plots	6	+200%	-
Local councils/municipalities rules and permits	0		
Local councils/municipalities other	12	-48%	-33%
MINISTRY OF JUSTICE ACTIONS	15	+36%	+88%
MinJustice enforcement service	9	+13%	+80%
MinJustice registration service	6	+100%	+100%
LEGISLATION DRAFTS/AMENDMENTS	15	+85%	0%
Regulatory framework – tax issues	6	0%	+50%
egulatory framework state regulators	6	-14%	0%
Deficiencies in regulatory framework other	2	+100%	0%
Deficiencies in regulatory framework local councils/municipalities	1	0%	0%
CUSTOMS ISSUES	10	-29%	-47%
Customs clearance delay/refusal	5	-38%	-29%
Customs valuation	2	-33%	-60%
Customs overpaid customs duties refund	2	+100%	-50%
Customs other	1	-50%	
		3070	-67%
STATE SECURITY SERVICE ACTIONS	9	-31%	-67% +80%
	9		
STATE SECURITY SERVICE ACTIONS State Security Service procedural abuse State Security Service criminal case initiated		-31%	+80%
State Security Service procedural abuse State Security Service criminal case initiated	3	-31% -40%	+80%
State Security Service procedural abuse	3 1	-31% -40%	+80%
State Security Service criminal case initiated State Security Service inactivity	3 1 1	-31% -40%	+80%
State Security Service procedural abuse State Security Service criminal case initiated State Security Service inactivity State Security Service corruption allegations	3 1 1 0	-31% -40% -67% -	+80% 0%
State Security Service procedural abuse State Security Service criminal case initiated State Security Service inactivity State Security Service corruption allegations State Security Service other	3 1 1 0 4	-31% -40% -67% - - +33%	+80% 0% +100%

Compared to the previous quarter, we observe a decrease in the number of complaints on almost all subjects of tax issues. This led to a 4 pp drop of their share – it equaled 67% by the end of the reporting period. In comparison with the previous quarter the number of complaints on e-administration and VAT refund decreased by half.

In Q1 2018 we received 305 complaints on tax invoices suspension. And we assess this as a rather high figure, because from January 2 to March 22 the SFS did not block the tax invoices. Received complaints we primarily referred to unsolved suspensions dated 2017.

Tax subjects which performed growth in the number of received complaints were SFS criminal proceedings, which increased by quarter compared to the Q4 and Q1 2017; and termination of agreements on the recognition of electronic reporting – plus 75% compared to the previous period.

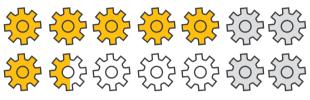
In the meantime, a major growth in the number of appeals is recorded for law enforcement bodies. This block's share has grown by 5pp since the last quarter to 14% of all requests. The key driver of this growth was the Prosecutor's Office. The number of complaints concerning this state body has increased by 50% since the previous quarter. Appeals relating to tax criminal cases also increased by 25%.

A 2pp growth is recorded for the percentage of appeals regarding actions of state regulators as a proportion of the total number – up to 8%. Meanwhile, the share of local councils decreased from 8% in Q1 2017 to just 3% in Q1 2018.

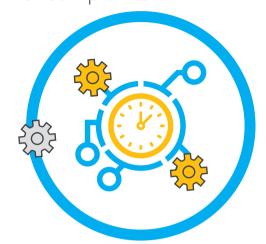
1.2. Timelines of the preliminary review of complaints

(Clause 5.3.1 (b) of Rules of Procedure)

The average time for preliminary review of complaint:



6.6 working days



For reference – according to our Rules of Procedure the average time for preliminary review should not exceed 10 working days.

1.3. Number of investigations conducted and grounds for declining complaints

(Clause 5.3.1 (c) of Rules of Procedure)



as of March 31, 2018

NUMBER OF INITIATED INVESTIGATIONS:

In this reporting quarter, the BOC initiated over twice as many investigations as in Q1 2017.

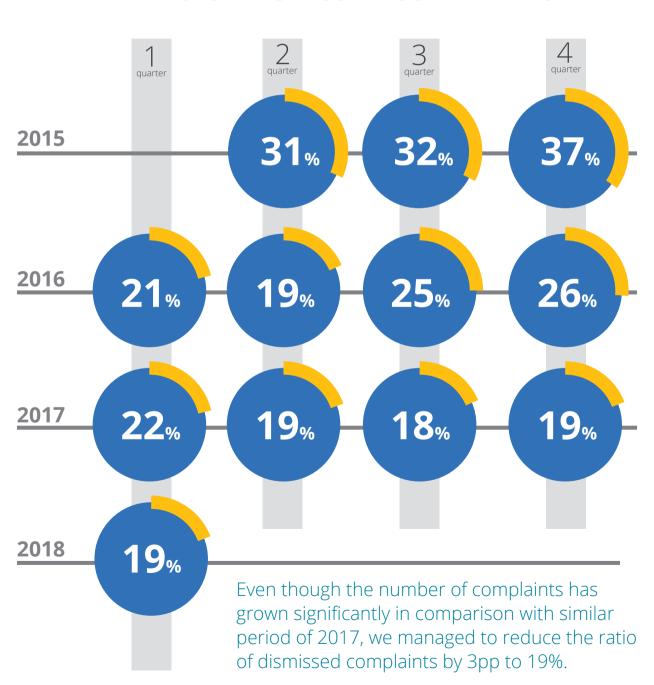


complaints 600





RATIO OF DISMISSED COMPLAINTS:



MAIN REASONS FOR COMPLAINTS' DISMISSAL IN QUARTER I 2018



complaints are outside Business Ombudsman's competence



Complaints subject to any court or arbitral proceedings, or in respect of which a court, arbitral or similar type of decision was made



In the opinion of the Business Ombudsman, the Complainant did not provide sufficient cooperation



The complaint had no substance, or other agencies or institutions were already investigating such matter



Investigation by the Business Ombudsman in a similar case is pending or otherwise ongoing



Complaints in connection with the legality and/or validity of any court decisions, judgments, and rulings



Complaints arising in the context of privateto-private business relations



The party affected by the alleged business malpractice had not exhausted at least one instance of an administrative appeal process



Complaints resolved before BOC's actions



Complaint filed repeatedly after being decided by the Business Ombudsman to be left without consideration



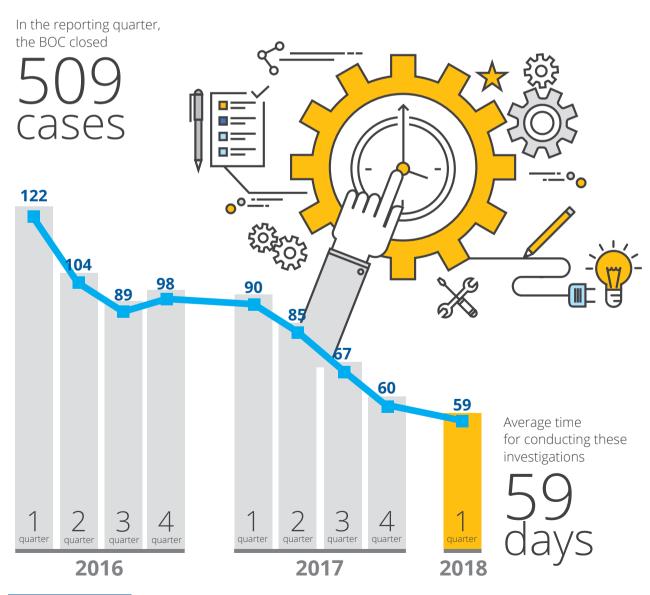
The most widespread reason (32%) for complaints dismissal – they are outside of the Business Ombudsman's competence. Active court proceeding (17%) and lack of cooperation from the Complainant side (12%) were also typical for this period.

1.4. Timelines of conducting investigations

(Clause 5.3.1 (d) of Rules of Procedure)

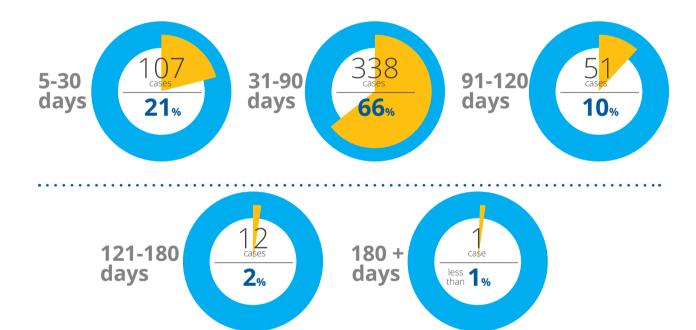
In this reporting period, the BOC's team showed the best timeliness of conducting investigations since launch of operations. Perfectly fitting our Rules of Procedure's average investigation duration of 90 days, we even managed to reduce it by 31 days since Q1 2017.

AVERAGE TIME FOR CONDUCTING INVESTIGATIONS SINCE 2016:



RATIO OF CLOSED CASES BY DAYS:

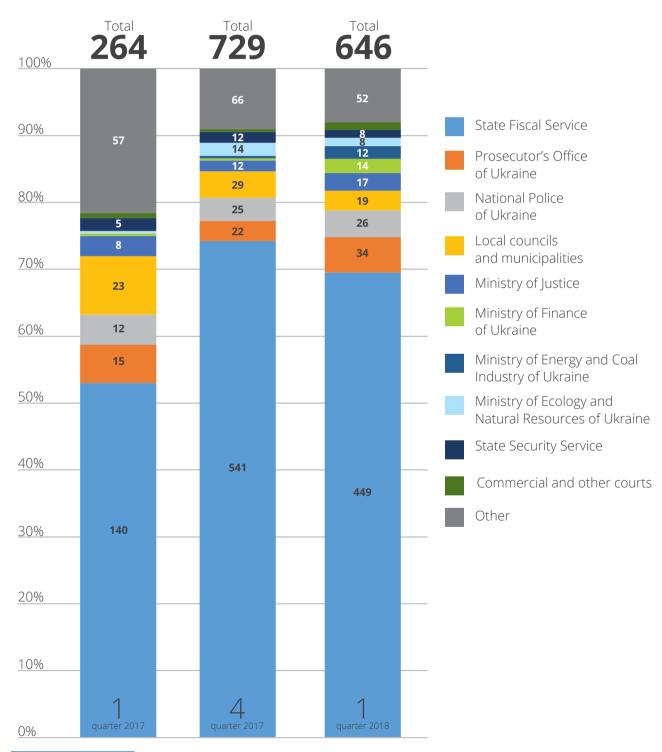
The biggest part of cases – 445, which is 87% of all closed investigations in Quarter I – was conducted within 90 days as the Rules of Procedure envisage. One fifth of all cases were closed within a month. Less than 1% took over 180 days to investigate.





1.5. Government agencies subject to the most complaints

TOP-10 GOVERNMENT AGENCIES SUBJECT TO THE MOST COMPLAINTS



OTHER COMPLAINEES INCLUDE:

In the long trend, we can observe an established TOP set of complainees, namely the SFS, the law enforcement bodies block, local councils/municipalities.

Talking of absolute figures – the number of appeals regarding the State Fiscal Service decreased by 17% from the previous quarter, but increased more than threefold compared to the same reporting period of 2017.

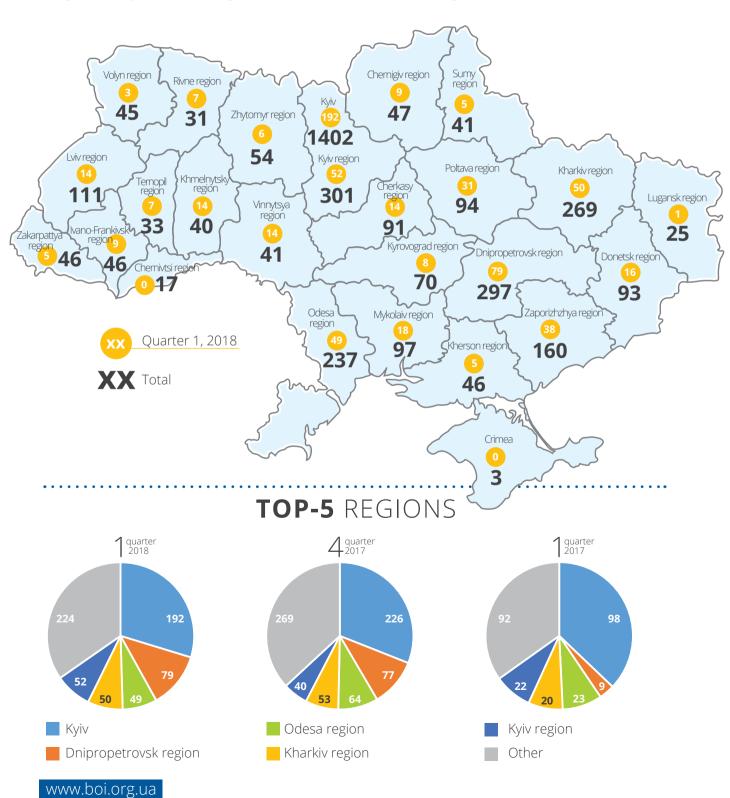
Among law enforcement agencies a growth in the number of complaints from the previous quarter is recorded for the Prosecutor's Office (+54%) and National Police (+4%). In the meantime businesses addressed us less regarding actions of the State Security Service. The Memorandum on Cooperation, signed in the second half of 2017, might have facilitated this.

In the reporting quarter entrepreneurs turned to us less than on average with respect to actions of local councils since launch of operations.

Ministry of Health of Ukraine	6
Ministry of Economic Development and Trade of Ukraine	5
State Enterprises	4
Parliament, the Cabinet of Ministers, the President of Ukraine	4
Ministry of Social Policy and Labour of Ukraine	4
NABU	4
Ministry of Agrarian Policy and Food of Ukraine	3
Ministry of Infrastructure of Ukraine	3
National Commission for State Regulation of Energy and Public Utilities	3
Ministry of Defence of Ukraine	2
Antimonopoly Committee of Ukraine	2
State Service of Ukraine on Food Safety and Consumer Protection	1
Communal Services of Ukraine	1
Ministry of Regional Development	1
Other	9

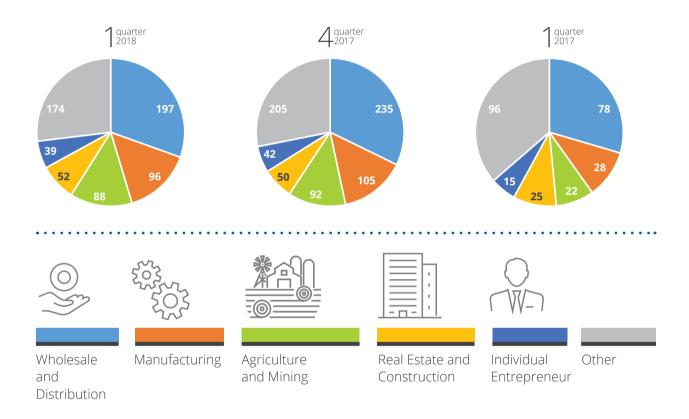
1.6. Geographical distribution of complaints received

In Q1 2018, the geography of complaints continued widening. This proves the expanding knowledge of our mandate. That is why the share of Kyiv is gradually decreasing in favor of other active regions.



1.7. Complainants' portrait

TOP-5 COMPLAINANTS' INDUSTRIES

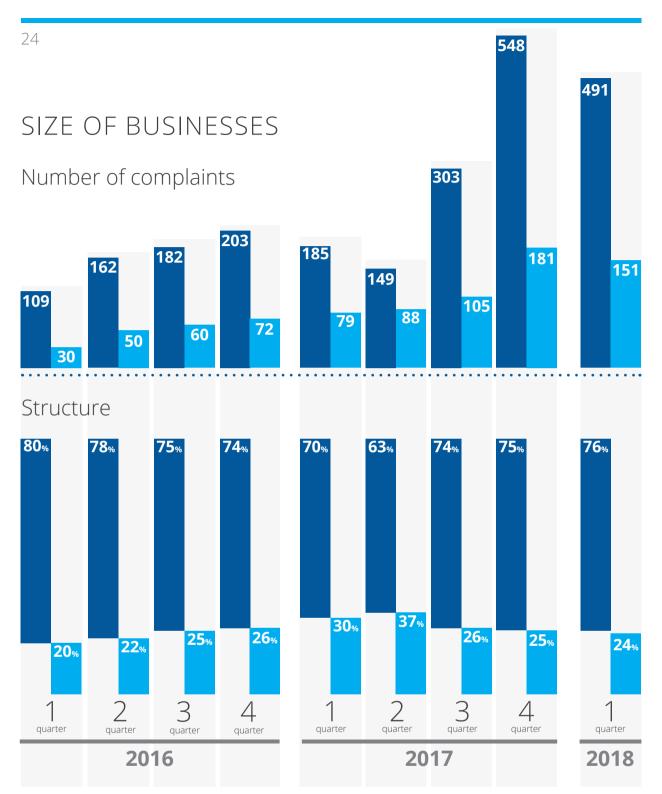


Complaints were coming predominantly from wholesalers and distributors, manufacturers, agriculture and mining, real estate and construction, as well as individual entrepreneurs. The share of wholesalers has somewhat declined in favor of agro and mining business, while other industries have remained stable since the previous reporting quarter.

OTHER INDUSTRIES INCLUDE:

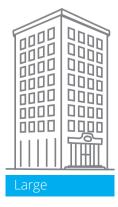
Retail Processing Industry Activities in the field of culture and sports, recreation 28 and entertainment Auto transport Supply of electricity, gas, hot water, steam and air conditioning Banks Physical Person Warehousing Engineering, geology and geodesy areas activity Energy and Utilities **Business Services** Financial Services Public Organizations Consulting Ground and pipeline transport Farming Electric installation works Hire, rental and leasing Repair and Maintenance Services Health, Pharmaceuticals, and Biotech Publishing and printing services

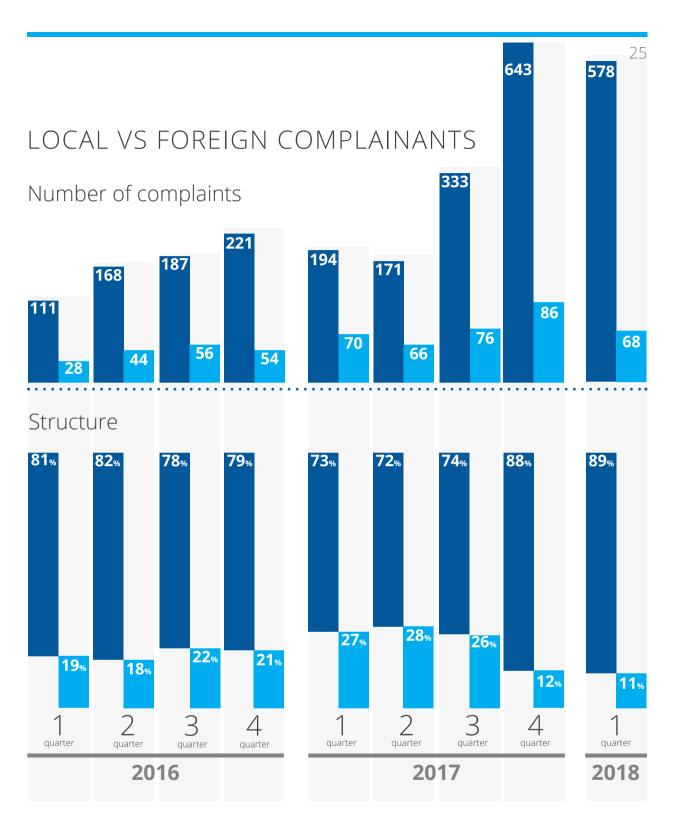
Technical testing and research Activity in the field of law Fishing services Advertising Maintenance of buildings Telecommunications and territories Computer and Electronics Insurance Metallurgical production Notary services Consumer Services Printing and reproduction activity Oil and Gas Delivery services Restaurant business Private security firms activity Economic and commercial activity Software and Internet Waste collection and disposal Education Transportation and storage



Small and medium enterprises lodged over three quarters of appeals, which is 6pp more than in the similar reporting period of 2017.







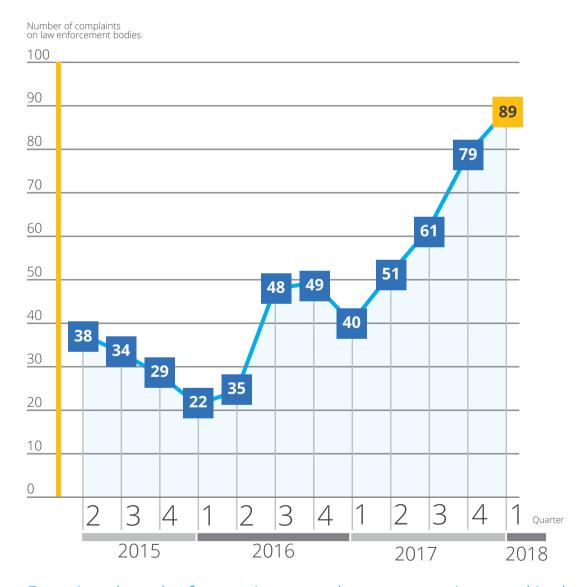


The absolute majority of complaints (89%) were lodged by local enterprises. This quarter we received from foreign companies 18 complaints less than in the previous one and this was the largest quarterly drop since launch of operations.

1.8. Law enforcement bodies: analysis of complaints

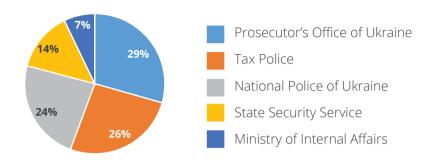
Since launch of operations in May 2015 and till the end of the first quarter of 2018 the Business Ombudsman Council received 575 complaints on law enforcement agencies.

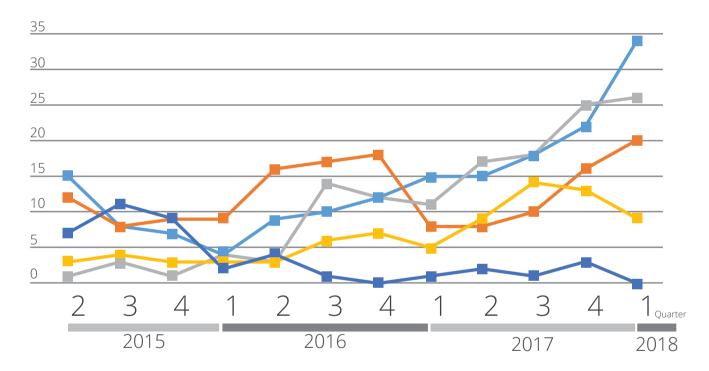
LAW ENFORCEMENT BODIES: DYNAMICS OF RECEIVED COMPLAINTS



Ever since launch of operations, we observe a growing trend in the number of appeals related to actions of law enforcement agencies. Although in a reporting period a growth rate has somewhat slowed down as compared to Q4 2017.

COMPLAINEES

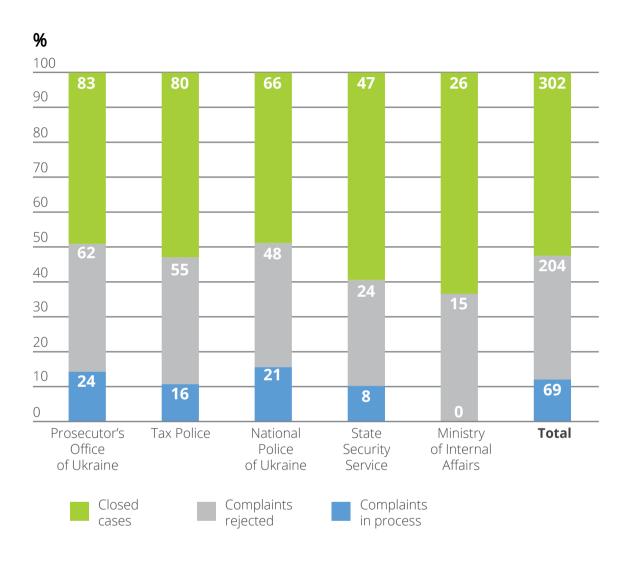




In the long trend we observe a growing number of complaints against the Prosecutors Office. Soon after the National Police was separated from the Ministry of Internal Affairs structure in late 2015, the number of appeals concerning the emerged agency also began to increase. This is already evident in the data of 2016.

The last two quarters were marked by a decrease in the number of complaints regarding the State Security Service of Ukraine. In the first two quarters of 2017, we observe a drop in the number of complaints concerning the Tax Police, after which the trend went up again.

COMPLAINTS BY STATUS

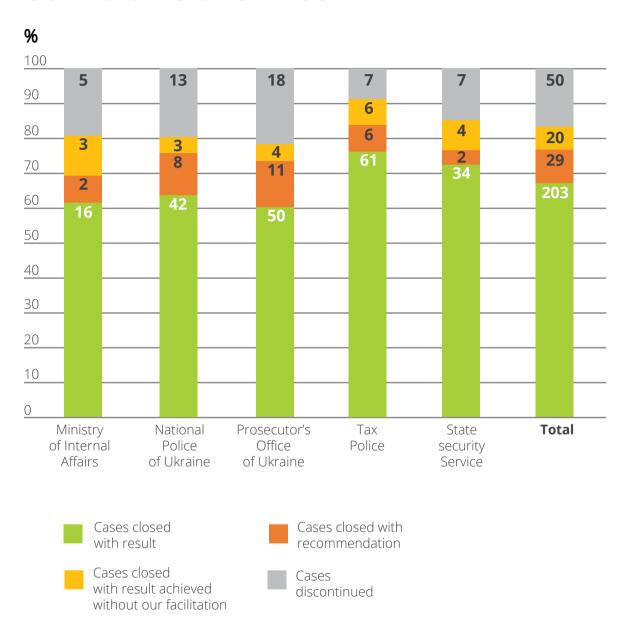


We closed 302 cases, which is 53% of all complaints received on this subject.

The Ministry of Internal Affairs and the State Security Service perform the best ratio of closed cases – 65% and 59% respectively.

As not fitting our eligibility criteria, we had to dismiss over one third of appeals, which is more the average dismissal rate of 26%.

COMPLAINTS BY STATUS



On average, we closed 67% of cases regarding law enforcement bodies with the immediate result for the complainant.

The best performance is recorded for the Tax Police. Over three fourth of cases concerning this state agency were closed with result.

Meanwhile, the Prosecutor's Office performs the lowest share of successfully closed cases and the highest one as for cased discontinued and closed with recommendations.

CLOSED CASES BY SUBJECT



Prosecutor's Office actions as well as tax and customs criminal proceedings each pertain to 28% in total amount of closed investigations. Actions of the State Security Service and Ministry of Internal Affairs were appealed in 23% and 7% of closed cases respectively.

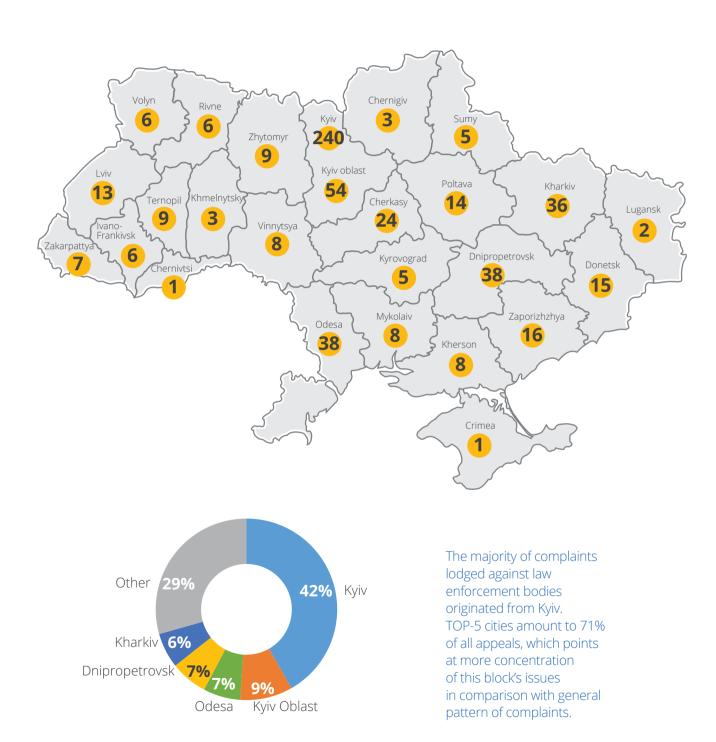








LAW ENFORCEMENT BODIES: GEOGRAPHY OF COMPLAINTS



COMPLAINANTS' PORTRAIT

Similarly to the overall pattern, the main source of complaints was small and medium-sized companies. As for large enterprises, complaints about the Prosecutor's Office dominate (34%).

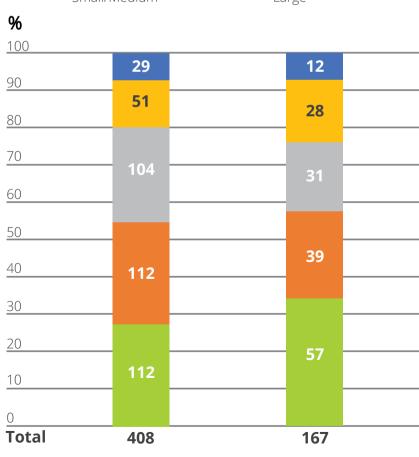
The share of complaints on the State Security Service is much bigger among large companies than small ones – 17% and 12,5% respectively.

SIZE OF BUSINESS



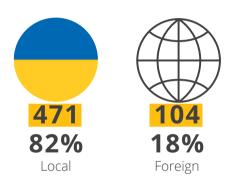


of Internal Affairs



ORIGIN OF INVESTMENTS

We received more complaints concerning Prosecutor's Office and Ministry of Internal Affairs from foreign enterprises than from local ones. Meanwhile, the share of the Tax Police and the National Police is higher for local companies.





LAW ENFORCEMENT BODIES: INDUSTRIES



Wholesale and Distribution



Manufacturing



Individual Entrepreneur



Agriculture and Mining



Real Estate and Construction

The industry portrait of complainants is similar to the one characterizing the whole bulk of appeals. However, individual entrepreneurs more frequently turn to the BOC concerning actions of law enforcement agencies than in general: 3rd vs 5th position respectively.

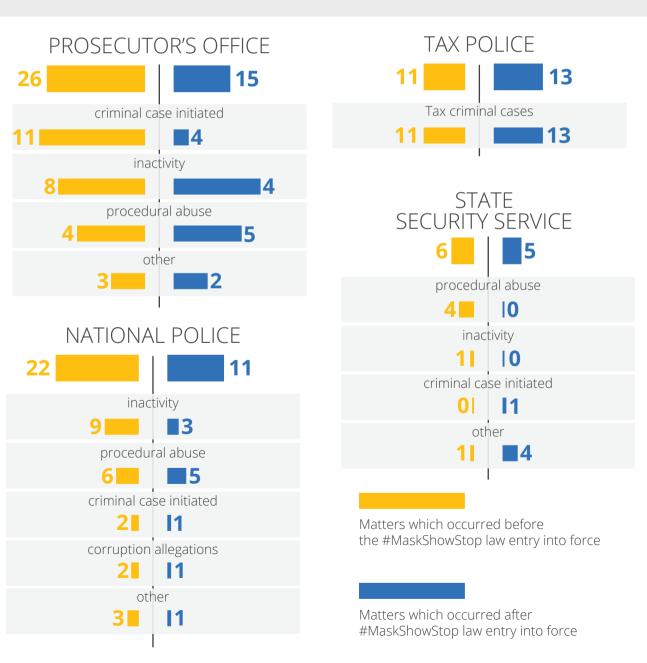
COMPLAINTS RECEIVED AFTER THE #MASKSHOWSTOP LAW ENTRY INTO FORCE

On December 7, 2017, the Business Pressure Relief law known as #MaskShowStop, entered into force. Since that date and till March 31, 2018, we received 109 complaints concerning actions of law enforcement bodies. 60% of them relate to episodes of malpractice, which occurred before December 7, 2017, i.e. before the law was enacted.

As for occasions, which took place after December 7, 2017 – notably, only one complaint regards to the violation of the #MaskShowStop law. The remaining 43 complaints relate to other types of malpractice by law enforcement bodies.

Mask Show Stop





Business Ombudsman Council

FEEDBACK



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 most in dealing with us and what areas need improvement.

98%

of complainants said they felt good about 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 is support and protection of enterprises before state bodies".

Stanislav KOVALENKO

Director of PROEKTGAZBUD LLC



"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



"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



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

Mykola DUBNYUK

Director of "BEZMYATEZHNE" LLC



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

Dmytro OVSIY

Managing Partner of Law firm "GORO LEGAL"



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

Oleksandr AGUR

Director of Shipping-Line LLC



"Due to the 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".

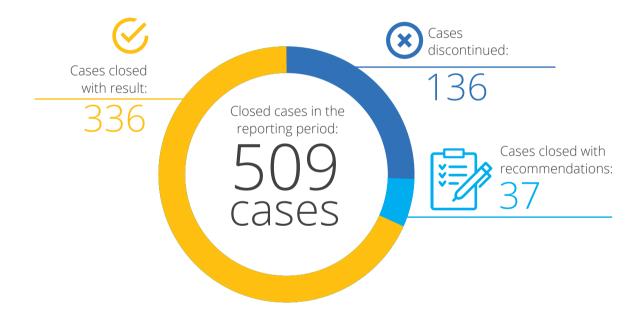
Simon WELLFORD

General Director of British American Tobacco Ukraine LLC

SUMMARY OF KEY MATTERS

AND FOLLOW-UP OF RECOMMENDATIONS

2.1. Information on closed cases



In the reporting quarter, we closed

66%

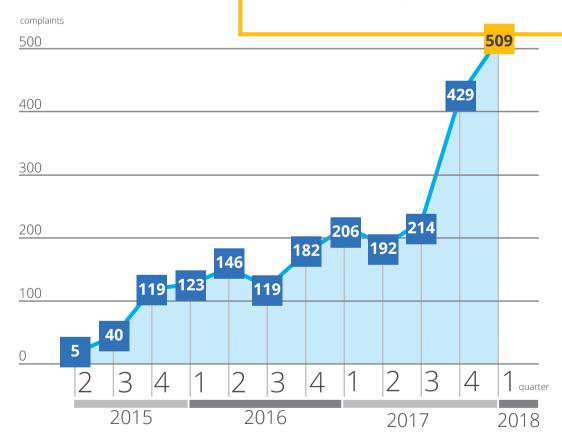
of cases with immediate desirable (either financial or non-financial) outcome for complainants.

In this reporting quarter, we closed the largest number of cases since launch of operations.

If to compare this figure with the number of received complaints, this amounts to

79%

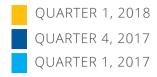
which is an absolute record since launch of operations.

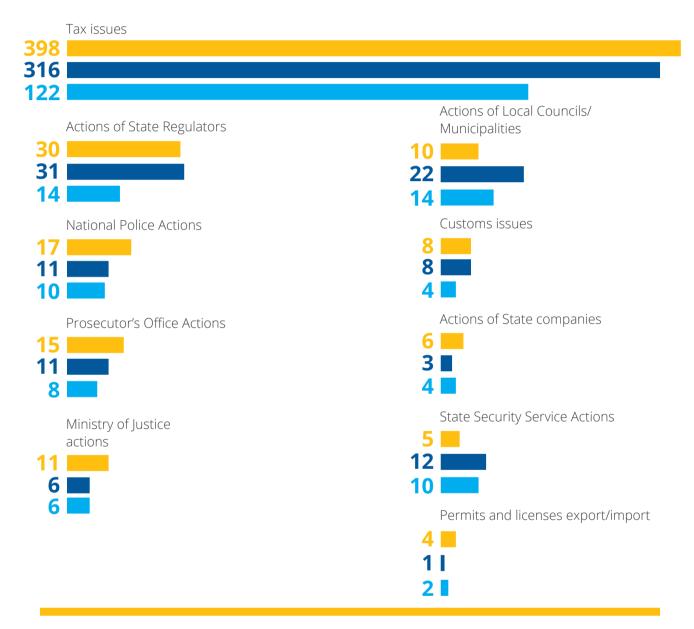


Total number of closed cases since launch of operations:

2284

TOP-10 SUBJECTS OF CLOSED CASES IN QUARTER I 2018:





78% of all closed cases were tax-related, with three quarters of them pertaining to suspension of tax invoices.

Following the increased number of appeals regarding actions of law enforcement bodies, we closed more cases on these subjects than in the previous quarter. The only state agency that performed a decrease of closed cases in comparison with the previous quarter, was the State Security Service.

In comparison with Q4 2017 we closed twice less cases concerning actions of local councils, twice more – regarding Ministry of Justice and state companies and the same quantity if analyzing state regulators and customs issues.



FINANCIAL IMPACT IN QUARTER I 2018:

UAH 195.113.568

Tax VAT invoice suspension

118.069.514

Other state regulators

25.393.974

Tax inspections

19.573.811

Tax VAT refund

11.591.886

Tax other

10.073.965

Tax VAT electronic administration

6.420.936

Customs

3.000.000

Customs valuation

672,000

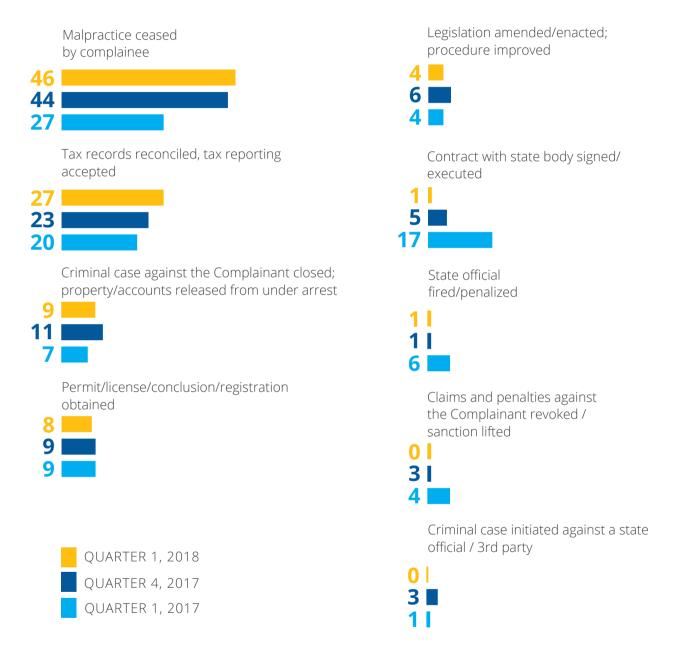
MinJustice enforcement service

317.482

DIRECT FINANCIAL IMPACT OF BOC'S OPERATIONS 20 MAY 2015 – 31 MARCH 2018:

UAH 11.5 billion

NON-FINANCIAL IMPACT OF BOC'S OPERATIONS IN QUARTER I 2018:

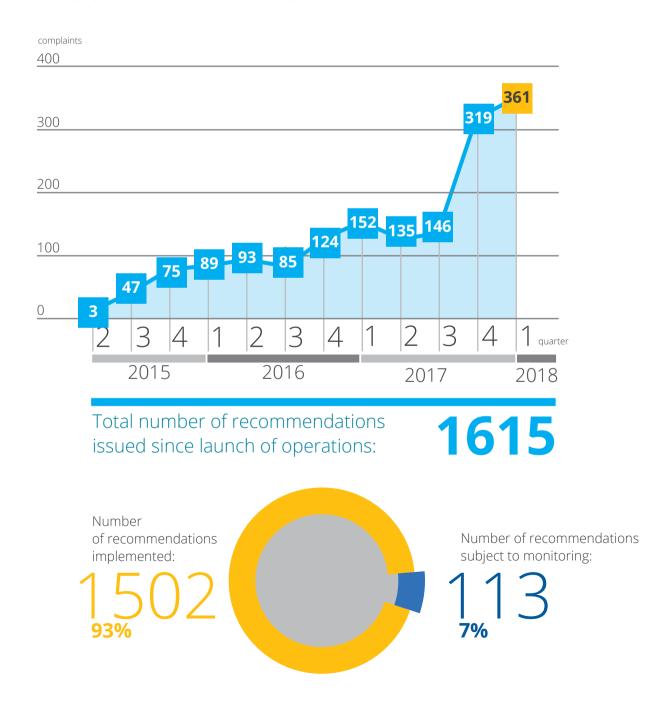


The number of cases on officials' malpractice ceased this quarter, was similar to the previous period and remains the key non-financial impact of our work. Acceptance of tax documents and closed criminal cases were also among our key intangible results of our work in Q1 2018.

2.2. The recommendations provided and systemic problems solved

The BOC provides recommendations to government agencies on case-by-case basis and monitors their implementation.

RECOMMENDATIONS PROVIDED



GOVERNMENT AGENCIES WHOM THE BOC ISSUED RECOMMENDATIONS IN 2015-2018 (CASE-BY-CASE BASIS) AND RATIO OF IMPLEMENTATION

	Recommendations issued	Recommendations implemented	Ratio of implemented to issued
State Fiscal Service	1100	1054	96%
Ministry of Justice	59	57	97%
Local councils and municipalities	63	53	84%
Prosecutor's Office of Ukraine	63	51	81%
National Police of Ukraine	51	43	84%
State Security Service	36	34	94%
Ministry of Economic Development and Trade of Ukraine	33	28	85%
Ministry of Agrarian Policy and Food of Ukraine	29	27	93%
Ministry of Ecology and Natural Resources of Ukraine	23	21	91%
Ministry of Internal Affairs	21	19	90%
Parliament, the Cabinet of Ministers, the President of Ukraine	23	18	78%
Ministry of Regional Development	14	14	100%
State Enterprises	17	14	82%
Ministry of Finance of Ukraine	12	9	75%
Ministry of Health of Ukraine	8	8	100%

By the end of the reporting quarter, government agencies implemented 93% of all recommendations issued by the BOC since launch of operations. For us, such a growing trend (+2pp from Q4 2017) stands for improvement of cooperation with state bodies.

The State Fiscal Service, concerning which we received the most complaints, performs a very high ratio of implemented recommendations – 96%, which is a 3pp increase since Q4 2017.



	Recommendations issued	Recommendations implemented	Ratio of implemented to issued
Ministry of Social Policy and Labour of Ukraine	11 8		73%
Commercial and other courts	7	7	100%
Other	7	6	86%
Ministry of Infrastructure of Ukraine	6	6	100%
National Commission for State Regulation of Energy and Public Utilities	6	5	83%
Antimonopoly Committee of Ukraine	6	5	83%
Ministry of Energy and Coal Industry of Ukraine	5	4	80%
State Service of Ukraine on Food Safety and Consumer Protection	4	3	75%
NABU	3	2	67%
National Bank of Ukraine	2	2	100%
State Funds	3	1	33%
National Council of Ukraine on Television and Radio Broadcasting	1	1 100%	
State Emergency Service of Ukraine	1	1	100%
Ministry of Education and Science of Ukraine	1	1	100%

The Ministry of Justice ranks second by the number of implemented recommendations with a ratio of 97%.

As for law enforcement bodies – Prosecutor's Office and the State Security Service improved their ratio by 3pp in comparison with Q4 2017.

SYSTEMIC ISSUES IDENTIFIED

In Q1 2018, we received 305 claims regarding tax invoice suspension, which is 60% of all tax complaints lodged to the BOC. This number is rather big, considering that automated system for their registration was temporarily halted on December 1, 2017 and that was a "residual effect" of previously suspended tax invoices. Consequently, we developed and introduced recommendations to the State Fiscal Service and Ministry of Finance on the procedure and criteria for tax invoices suspension.

Despite the SFS being the main source of appeals to us, we observe a good level of cooperation with this state body. The SFS has implemented 96% of our recommendations, and this ratio is among the best performing state agencies.

Increase in the number of appeals concerning actions of law enforcement bodies was recorded as compared to Q4 2017. The Prosecutor's Office turned to be the key driver of this growth.

Having analyzed data on appeals relating to law enforcement agencies after after #MaskShowStop law entry ento force law, we conclude that the majority of complaints relates to law enforcment bodies' malpractice which occurred before the adoption of the law. Notably, we've received only one appeal regarding violation of the #MaskShowStop law since then.

In the reporting period we received only 14 complaints concerning actions of local councils and municipalities, which is one third less, than in the previous quarter. Thus, the share of local councils' issues decreased from 8% in Q1 2017 to barely 3% in Q1 2018.

SYSTEMIC ISSUES SOLVED

The BOC focuses not only on fixing problems arising from particular investigations, but also digs deeper into systemic issues influencing the business environment as a whole. Below are examples of recommendations – both originating from particular investigations and from systemic reports – that were implemented by government agencies in Quarter I 2018.

STATE BODY

State Food Safety and Consumer Protection Service (SFSCP Service), Cabinet of Ministers of Ukraine (CMU)

SYSTEMIC ISSUE

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.

RESULT ACHIEVED WITH THE BOC FACILITATION

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.

State Fiscal Service

The bulk of previously received complaints proves that the SFS often fined the enterprise for arithmetical errors and mistakes when completing tax declarations. Meanwhile, the amount of damage inflicted on the state did not coincide with the severity of the punishment.

The SFS accepted the Council's arguments and changed its overall approach to arithmetic errors. After an administrative appeal and confirmation of an arithmetic error, the SFS will not penalize a taxpayer.

SYSTEMIC RECOMMENDATIONS IMPLEMENTED

SYSTEMIC REPORT

"Reducing the risk of corruption and attracting investment to the construction industry"





ISSUE/TASK

Simplified access to urban planning documentation

BOC'S RECOMMENDATION

The Ministry of Regional Development, Construction and Residential Services to work with regional administrations to determine the state of urban development by adding specific expenditures to the list of those what might be covered by the State Regional Development Fund in the next budget cycle.

ACTIONS TAKEN BY GOVERNMENT AGENCIES

The governmental decision to create the Internet portal for collecting and publishing basic information (metadata) on urban planning documentation resulted in launching a website http:// pmap.minregion.gov.ua, which is expected to be filled and start full-fledged functioning in autumn of 2018. This resource is aimed at speeding up the process of searching and registration of investment land plots, development of land management and construction projects by 1-3 months.

ISSUE/TASK

Adjusting the issue of address assignment

BOC'S RECOMMENDATION

Ministry of Regional Development, Construction and Residential Services:

- to provide clear distribution of powers between different agencies regarding the assignment of postal addresses to buildings and properties, in Sec. I "Organizational and Legal Basis for Local Government" in the Law of Ukraine "On Local Governance" and Part 1 "The Competencies of Local State Administrations" in the Law of Ukraine "On Local State Administrations":
- to establish procedures for assigning a postal address in the Law of Ukraine "On Postal Communication" by: (i) designating the CMU as the authorized body to establish a procedure for assigning addresses with a complete list of documents necessary, reasons for possible refusal, and other key issues; and (ii) establishing that "the postal address" term may only be used in the context of legislation on postal services;
- to amend the Laws of Ukraine "On Local Governance", "On Local State Administrations", "On Regulating Urban Development Activities," "On Framework of Urban Development", "On Architectural Activity", and "On Advertising", being aimed at determining the address of the location of a construction site and further use in the context of regulation of the construction, commissioning of objects, as well as state registration of real rights to real estate.

ACTIONS TAKEN BY GOVERNMENT AGENCIES

On 22 March 2018, the Draft Law "On Amending Certain Legislative Acts of Ukraine in the Sphere of Urban Development" No.7085 dated 09 June 2017 was adopted in the first reading and is being prepared for the second reading at the moment. The said Draft Law, among other things, intends for creating the unified procedure for assigning addresses to construction sites.

SYSTEMIC REPORT

"Challenges and problems in the Sphere of Competition Protection and Oversight"



ISSUE/TASK

To ensure that the AMCU's existing institutional capacity is properly utilized

BOC'S RECOMMENDATION

(1) To make sure that the AMCU's annual plans clearly specify (i) the main priority areas of the AMCU's activities for the forthcoming year; and, where relevant, (ii) markets that will be subjected to comprehensive study.

ACTIONS TAKEN BY GOVERNMENT AGENCIES

On 28 February 2018, the AMCU by its Resolution No.5-pn, adopted the Annual Report for 2017, which, among other things, specifies AMCU's priorities for 2018 by referring to (i) key strategical and methodological documents due to be developed; as well as (ii) markets and activities that will be scrutinized throughout the year;

The official AMCU's website now contains the Action Plan on drafting regulatory acts for 2018 (follow the link: http:// bit.ly/AMCU_site)



ISSUE/TASK

The lack of secondary legislation setting forth criteria of admissibility of state aid in different fields.

BOC'S RECOMMENDATION

To ensure compliance with Article 6 of the State Aid Law, the CMU shall adopt secondary legislation

setting forth criteria of admissibility of state aid.

ACTIONS TAKEN BY GOVERNMENT AGENCIES

In the course of January 2018 the Cabinet of Ministers of Ukraine has approved the majority of the Criteria for the admissibility of state aid, namely:

- 1 Criteria for assessment of the admissibility of state aid to business entities for the training of employees (Resolution of the CMU dated 11 January 2018, No.11);
- 2 Criteria for assessment of the admissibility of state aid to business entities for the employment of certain categories of

- employees (Resolution of the CMU dated 31 January 2018, No.33);
- 3 Criteria for assessment of the admissibility of state aid for restoring solvency and restructuring of business entities (Resolution of the CMU dated 31 January 2018, No.36);
- 4 Criteria for assessment of the admissibility of state aid to business entities to ensure the development of regions and support of medium and small businesses (Resolution of

- the CMU dated 7 February, 2018);
- 5 Criteria for assessment of the admissibility of state aid to business entities for carrying out scientific research, technical development and innovation activities (Resolution of the CMU dated 2 June 2018).

Currently, the Criteria for the admissibility of state aid, for the protection of the environment, and for supporting coal industry are reportedly being drafted.



SYSTEMIC REPORT

"Combatting Raidership: Current State and Recommendations"



ISSUE/TASK

To prevent manipulations in determining the jurisdiction in raidership schemes involving continuous reregistration of property rights between physical persons and legal entities. In such cases, bona fide property owners

have to file concurrent claims against different defendants (physical persons and legal entities) and, simultaneously, deal with the related disputes under the rules of different types of litigation.

BOC'S RECOMMENDATION

Introduce amendments to the Administrative Procedural Code of Ukraine to provide that the subject matter of the claims in the administrative proceedings cannot be demand to cancel or revoke the registration entries in the state registries, if enforcement of decision taken in such a case would directly result in the emergence, modification or termination of real rights or encumbrances.

Introduce amendments to the Civil Procedure Code of kraine and the Commercial

Procedure Code of Ukraine, which would foresee that property owner, when applying to the court for the protection of his/her property right, can unite in a single claim several related claims due to be considered under the rules of different types of litigation, provided that a separate consideration of such claims by the courts of different jurisdictions would deprive him/her of efficient legal protection envisaged in Article 13 of the European Convention on Human Rights and Fundamental Freedoms.

ACTIONS TAKEN BY GOVERNMENT AGENCIES

On 07 January 2018, selected amendments to various procedural codes – introduced by the Law of Ukraine No. 2147-VIII, dated 03 October 2017 (the "Judicial Reform Law") – became effective. Among other things, the Judicial Reform Law ensured implementation of both recommendations in this field, namely:

1 Article 19, para.
3 of the Administrative
Procedural Code has
been amended to provide
that administrative
courts shall not consider
claims that derive from
claims in a private-law
dispute and are filed
therewith, if this dispute

- is subject to consideration other than as provided hereunder, and is being considered by the relevant court.
- 2 Article 20, para. 13 of the Commercial Procedural Code of Ukraine has been amended to provide that commercial courts shall jointly consider separate claims on property rights protection, if one of them is already subject to consideration in the commercial court.
- 3 Article 19, para. 1 of the Civil Procedural Code of Ukraine now states that courts shall jointly consider

- separate claims on property rights protection, if one of them is already subject to consideration in the civil court.
- 4 Article 30, para. 8 of the Civil Procedural Code of Ukraine and Article 30, para. 12 of the Commercial Procedural Code of Ukraine state that derivative claims arising from claims for registration of property and property rights and other registration actions shall be considered by the same court that has commenced proceeding in the property dispute.



SYSTEMIC REPORT

"NATURAL MONOPOLIES vs. COMPETITIVE BUSINESS: how to improve relations"



ISSUE/TASK

Electricity Accounting

ISSUE/TASK

Consideration of Complaints



BOC'S RECOMMENDATION

To improve tracking systems in the networks

BOC'S RECOMMENDATION

To improve responsiveness to complaints from customers

ACTIONS TAKEN BY GOVERNMENT AGENCIES

On 14 March 2018, the NCRECS approved the Commercial Electricity Accounting Code, which defines the principles of accounting, processes and procedures for ensuring the formation of data on the volume of produced, transmitted, distributed, consumed, imported and exported electricity.

ACTIONS TAKEN BY GOVERNMENT AGENCIES

The Rules for the Retail Electricity Market were approved by the NCRECS on 14 March 2018, section VIII of which establishes the procedure for consideration of claims and complaints lodged by the consumers against the electricity market operators.

SYSTEMIC REPORT

"Abuse of Powers by the Law Enforcement Authorities in their Relations with Business"



ISSUE/TASK

Inefficient (delayed) course of the pre-trial investigation, essentially comprising inactivity of the pre-trial investigation authorities and inadequate supervision at the part of the public prosecutor's office in criminal proceedings that are lasting for years



BOC'S RECOMMENDATION

To amend Article 219 of the Criminal Procedural Code of Ukraine to prescribe maximum time limits for conducting pre-trial investigation of criminal proceedings until suspicion notice is furnished to a person.

ACTIONS TAKEN BY GOVERNMENT AGENCIES

On 15 March 2018 the respective amendments introduced by the Law of Ukraine dated 03 October 2017, No.2147-VIII - became effective. In particular, Article 219, para. 1 now sets forth specific time limits (i.e., 6, 12 or 18 months, depending upon severity of crime implicated) for conducting pre-trial investigation starting from the moment when data about criminal misconduct is registered with the Unified Registry of Pre-Trial Investigations and until suspicion notice is furnished

2.3. Summary of important investigations

In this chapter you may read the illustrations of recommendations the BOC issued to various government agencies and the results of their implementation.

TAX ISSUES

SUBJECT: TAX INVOICE SUSPENSION

#1

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 that it 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: CRIMINAL PROCEEDINGS AGAINST BUSINESS, INITIATED BY THE SFS

#2

Criminal case against agricultural trader is dropped for lack of evidence of a crime

Subject of Complaint:

State Fiscal Service of Ukraine (SFS), Investigative Department of Financial Investigations at the State Tax Inspection in Holosiyiv District of the General Directorate of the SFS in Kyiv (Holosiyiv STI Investigation Department).

Complaint in brief:

On October 13, 2017, a Kyiv-based agricultural trader filed a complaint with the BOC regarding actions by the Holosiyiv STI Investigation Department. According to the Complainant, the company was baselessly accused of not paying taxes worth over UAH 18mn.

In January 2016, the SFS audited the company, based on the results of which the Complainant owed UAH 18mn in back taxes. Disagreeing with this conclusion, the company appealed the SFS decision in court. In June 2017, the Holosiyiv STI Investigation Department filed a criminal case against the company for tax evasion.

Over the next six months, the company was regularly requested to provide documents and its employees interrogated. The Complainant tried to independently resolve the problem, appealing to the Investigative Department and to the Prosecutor's Offices in Holosiyiv District and the City of Kyiv, and even to the PGO. Still, the case was not dropped.

Actions taken:

The BOC investigator turned to the Kyiv Prosecutor's Office and the SFS to verify the legality and validity of the criminal investigation. After receiving the run-around replies from these government agencies, the investigator brought the Complainant's case up with the PGO.

Result achieved:

With the Council's support, on January 12, 2018, the Holosiyiv STI Investigation Department closed the criminal investigation against the company for absence of evidence of a crime. This allowed the Complainant to resume normal business operations. The case has been successfully resolved.

SUBJECT: TAX INSPECTIONS

#3

SFS will no longer fine companies over arithmetic errors

Subject of complaint: State Fiscal Service (SFS), Kharkiv Oblast Main SFS Office (Kharkiv SFS)

Complaint in brief:

On January 30, 2018, a company based in Kharkiv Oblast addressed the BOC about an SFS fine worth UAH 540.000 that the Complainant wanted to challenge.

When filling out its declaration, the company had made a mistake by adding too many digits although it paid all the taxes owed on time and in full. However, the electronic administration system automatically charged an erroneous amount in tax liabilities. According to the automated calculation, the Complainant owed an extra UAH 540.000. The company appealed against the decision, but the SFS insisted that the fine be paid.

Such a debt was a huge burden for the Complainant's small business and deprived the company of the right to apply the simplified tax to its agribusinesses: the penalties meant that the company could not extend the simplified tax regime.

Actions taken:

The BOC investigator drew the SFS's attention to the fact that the company's misprint in the declaration had not affected the timely receipt of taxes by the budget. He also noted the Complainant's impeccable tax history. For similar situations with misprints and arithmetic errors, the inspector suggested not to fine honest taxpayers and to treat such cases at the systemic level. The Council also sent a separate request to the national SFS office and the Kharkiv SFS regarding the inconsistency in the tax liability with a requested relevant information to be adjusted on the taxpayer's record. This allowed the Complainant to extend the simplified tax regime to 2018.

Result achieved:

The SFS accepted the Council's arguments and changed its overall approach to arithmetic errors. After an administrative appeal and confirmation of an arithmetic error, the SFS will not penalize a taxpayer. The fine of over half a million hryvnas against the Complainant was dropped and the simplified tax regime was extended.

CUSTOMS ISSUES

CUSTOMS ISSUES: VALUATION

#4

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 had 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 the to 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 900.000.

NATIONAL POLICE

NATIONAL POLICE OTHER

#5

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: inprisonment 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.

PROSECUTOR'S OFFICE

PROSECUTOR'S OFFICE INACTIVITY

#6

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.

PROSECUTOR'S OFFICE ACTIONS: CRIMINAL PROCEEDINGS AGAINST BUSINESS INITIATED BY THE PO

#7

Kharkiv PO closes criminal case against wholesaler over UAH 10mn in back taxes

Subject of Complaint: Investigation Department of the Kharkiv Oblast Prosecutor's Office (Kharkiv PO)

Complaint in brief:

On March 20, 2017, a wholesaler of goodies complained to the BOC about the actions of the Kharkiv Prosecutor's Office. According to the Complainant, the company was accused of not paying taxes and charged over UAH 10mn.

In April 2016, the SFS audited the company and demanded the Complainant to pay UAH 10mn of taxes and fines. The company disagreed with these conclusions and appealed the tax audit ruling, which was shortly cancelled by the SFS itself. However, the Main SFS Department in Kharkiv Oblast launched a criminal investigation against the company for non-payment of taxes. In August 2016, the pre-trial investigation was transferred to the Kharkiv PO. The Complainant repeatedly but unsuccessfully appealed to the supervisor of the pre-trial investigation to close the case. In particular, the Complainant referred to the results of a forensic expertise that contradicted the conclusions of the SFS audit.

Actions taken:

The BOC investigator thoroughly investigated the circumstances of the case and sent a request to the Prosecutor General's Office to review whether the pre-trial investigation needed to continue. She sent a similar appeal to the Kharkiv PO. In addition, the Council repeatedly put the company's case on the agenda of the PGO Expert Group.

Result achieved:

With the Council's support, the Kharkiv Prosecutor's Office closed the criminal case against the Complainant in March 2018. The case was solved successfully.

STATE SECURITY SERVICE

SSU OTHER

#8

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 REGULATORS

STATE REGULATORS: OTHER ISSUES



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.

STATE REGULATORS: OTHER ISSUES

#10

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, 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.

STATE REGULATORS: OTHER ISSUES

#11

Clothing manufacturer can buy out premises after 13 years of SPF runarounds

Subject of Complaint:Kyiv Municipal District
Department of State
Property Fund (Kyiv SPF)

Complaint in brief:

Nearly three years ago, on July 7, 2015, Asteys, a clothing manufacturer, approached the BOC with a complaint against the SPF. For 10 years, the SPF had not complied with the decisions of national courts of all instances, and even the European Court of Human Rights (ECHR), concerning the Complainant's privatization of an industrial facility.

In 2002-2005, the company rented an office and manufacturing facility on the books at the SPF for its office. At its own expense and with the permission of the lessor, the company renovated the facility, which cost almost 30% of the market value of the premises and over 70% of its book value.

According to the Law "On the State Privatization Program" that was in force at the time, Asteys had the right to buy out the property from the SPF. However, after filing its request, the company was evicted by force and no compensation was given for any of its expenses.

The Complainant appealed to the Commercial Court of Kyiv to exercise its legal right to privatization. The court ruled in favor of the applicant. This court decision went through all court instances and continued to be upheld. For several years, it was in progress of execution by the State Enforcement Service, but was not implemented.

Unhappy with the fact that the SPF was ignoring every domestic court ruling, in 2013 the company appealed to the European

Court of Human Rights, which confirmed the indisputable duty of the State of Ukraine to comply with the decisions of the national courts confirming the company's priority right to privatize the premises. Ukraine paid Asteys €3,000 of compensation, as had been ruled by the ECHR, but still did not release the premises for privatization.

At this stage, in 2015, the Complainant turned to the BOC. As it turned out, while Asteys was still challenging the SPF's inaction in court, the premises were leased to another company, which later rebuilt and privatized the property.

After lengthy negotiations between the Complainant and the SPF, which took place with the participation of the Business Ombudsman Council and the Verkhovna Rada Special Privatization Oversight Commission, in June 2016 the parties settled. The Fund offered the company two premises of the same area that the firm could then buy out. These actions ended the dispute and led to full implementation of the ECHR judgment. However, after the settlement was approved by a court of the first instance in 2017, new SPF management decided to file an appeal. This disrupted all previous agreements and violated the implementation of the ECHR ruling.

Actions taken:

The BOC recommended that the SPF unconditionally comply with the ECHR's decision, fulfilling the terms and conditions of the settlement agreement. In January 2018, the Court of Appeal upheld the decision of the first instance and the agreement between the parties remained in force. The SPF notified the BOC of its readiness to comply with the provisions of the settlement. At this time, premises that are subject to privatization by the Complainant are already on the list of Class A objects that are subject to privatization.

Result achieved:

The privatization process has begun. After this, the Complainant will be able to buy out the premises. The BOC continues monitoring the case.

MINISTRY OF JUSTICE

MINJUST ENFORCEMENT SERVICE

#12

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.

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.

PERMITS AND LICENSES

ENVIRONMENTAL/SUBSOIL

#13

Gas extraction company gets permits for subsoil use

Subject of complaint: Ministry of Environment and Natural Resources, State Geological Service.

Complaint in brief:

On December 14, 2017, a natural gas extraction company with assets in Western Ukraine turned to the Council. The Complainant had been unable to obtain permits for the use of subsoil since February 2017 and was forced to suspend operations at one of its fields.

Having submitted the necessary documents, the Complainant encountered a number of problems. At first, there were difficulties with the tax receipts confirming the absence of liabilities. After this issue was resolved, the Complainant was unable to obtain permits for more than three months. Then, in December, the lack of a quorum in the Commission issuing special permits for subsoil use under State Geological Service meant the Commission simply did not do its work.

Actions taken:

Having thoroughly examined the circumstances of the case, the BOC investigator brought the Complainant's issue to consideration with the management of the State Geological Service as well as the Ministry of Ecology. He supported the company's position and emphasized the need to comply with statutory time limits for reviewing and processing applications for permits. The investigator also contacted representatives of the Ministry of Ecology in the Commission to resume their work.

Result achieved:

As a result of joint efforts of the BOC and top officials at State Geological Service and the Ministry of Ecology, the Commission resumed work at the end of December. The Complainant's documents and other pending applications were finally reviewed. On January 12, 2018, the company informed the BOC that it had obtained two permits for subsoil use. The case was successfully closed in less than a month.

LEGISLATION DRAFTS/AMENDMENTS

DEFICIENCIES IN THE REGULATORY FRAMEWORK: STATE REGULATORS

#14

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 the company had unsuccessfully tried to 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 one had actually been adopted. Then the investigator sent a letter to the Ministry of Healthcare proposing options so that the Complainant would not have to cease his 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.

COOPERATION WITH STAKEHOLDERS

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

3.1. Cooperation with government agencies

Two draft laws linked with the Business Ombudsman Council in the list of 35 priority bills

On January 31, 2018, at the Cabinet of Ministers meeting, the Prime Minister of Ukraine Volodymyr Groysman presented a package of priority bills aimed at the economic growth by 5-7% per annum. Among them there were two documents directly related to the work of the Business Ombudsman Council:

Draft Law "On the Establishment of the Business Ombudsman Institution" (#4591).

This document is intended to consolidate the legal status of the BOC which has proved its practical effectiveness for almost three years of activity in Ukraine. Adoption of the law will strengthen the role of the Business

Ombudsman in protecting the rights of entrepreneurs.

Draft Law "On Protection of Ukrainian Exporters" (# 7365).

The document takes into account systemic recommendations from our report "Problems with Cross-Border Trading in Ukraine", published in October 2015. The bill aims at liberalization of currency control, abolition of sanctions for violation of currency legislation and partial cancellation of licenses. The bill also prescribes clear criteria for suspending foreign economic activity based on the threat to national security.



Establishment of the Interdepartmental Commission for ensuring law enforcement authorities compliance with rights and legitimate interests of individuals

On February 28, 2018, the Business Ombudsman supported the initiative of the Cabinet of Ministers to establish a commission to protect business from unlawful inspections and pressure from law enforcement agencies. The Prime Minister Volodymyr Groysman appointed Algirdas Šemeta as his deputy in this commission.

The key task of the new commission is to consider all cases of pressure on business

with the indication of involved officials. In particular, specific complaints received by the Business Ombudsman Council will be considered at these meetings.

The BOC has signed 9 Memoranda of Cooperation with: the State Fiscal Service, the Security Service of Ukraine, the Ministry of Ecology and Natural Resources, the State Regulatory Service, the Ministry of Justice, National Anti-corruption Bureau, Kyiv City State Administration, National Police and the National Agency on Corruption Prevention.

EXPERT GROUP MEETINGS HELD IN QUARTER I, 2018:

2018:	Number of meetings	considered during these meetings
State Fiscal Service	7	32
Prosecutor's Office	1	12
Ministry of Ecology and Natural Resources	2	5
Ministry of Finance	1	1
National Police	1	14
Total	12	64

Number of cases

3.2. 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.

Our experts spoke at a range of important events, namely:

24 January

Interagency Committee on ensuring rights or lawful interests of individuals by law enforcement agencies

30 January

Round table "Use of Expertize As a Defence Strategy", organized by the Ukrainian Advocates Association



21 February

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

6 February

Press briefing at the AMCU on administrative consideration's

28 February

American Chamber of Commerce meeting, devoted to discussion of the draft law #7365 "To protect Ukrainian exporters"











14 March

March – The V-th All-Ukrainian City Development Institutions Forum "Investment Attraction and CDI's"

20 March

WurstTech Conference – the BOC's activity on Protection of Business Interests



22 March

Conference
"Corporate Security
of Business",
organized by Krok
Business School
and "Dictum" law firm

15 March

VII International Competition Policy Forum







27 March

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





29 March

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

29 March

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

29 March

Conference "The Way to Economic Progress of Ukraine", organized by Sic Group

30 March

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













The media

Since launch of operations in May 2015, the BOC was cited 17 000+ times

99%

mentions being positive

and constructive.

This quarter our interviews were published in the leading Ukrainian and international media:

Business Ukraine

delo.ua

Deutsche Welle

Ekonomicheskaya Pravda

Ekonomicheskie Izvestiya

KyivPost

Liga.Business

Segodnya

Ukrainian Retailers Association

We also made a number of TV

Channel 4

Espreso TV

i.ua

Idealist.Media

UA:Pershyy

and the radio appearance at

Radio Holos Stolytsi

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.









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

WE PAY CLOSE ATTENTION TO:



Facebook

@BusinessOmbudsman Ukraine

3600+ followers so far – no paid ads, organic reach only. 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, provide legislative life hacks. YouTube channel 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.



Instagram

@business_ ombudsman_council

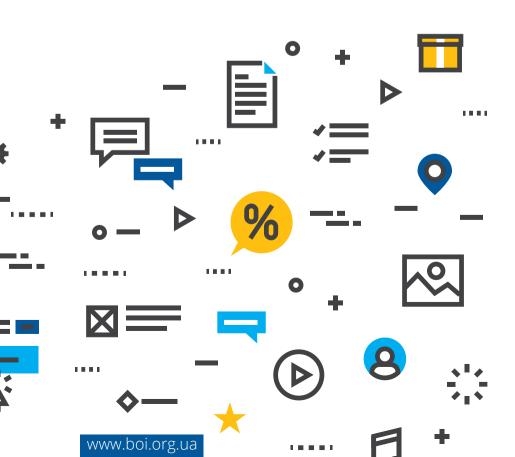
Instagram account enables us to display our work environment and gives a great opportunity to connect on a deeper level with our online audiences by sharing with them what's important to our company's core values.



Twitter

@Bus_Ombudsman

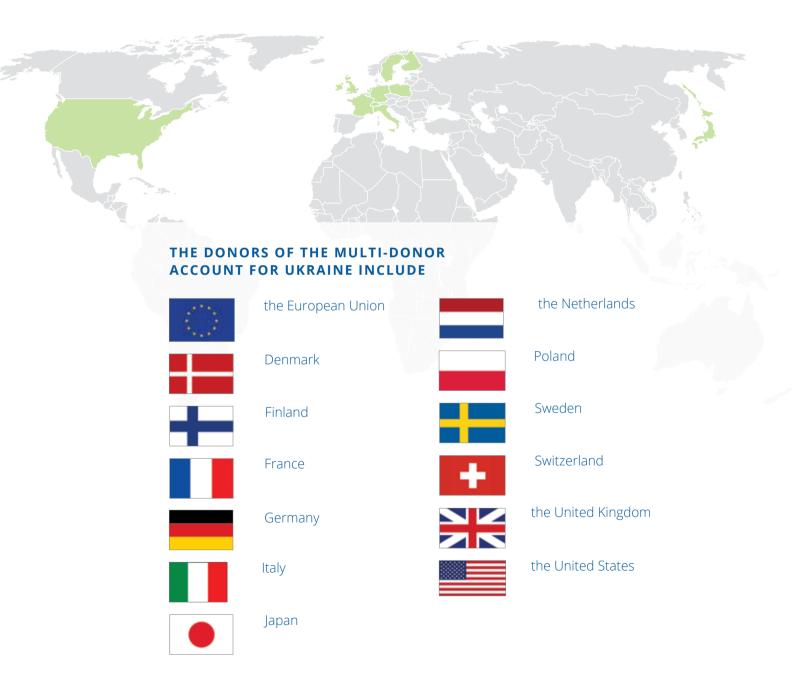
We use this channel to quickly get our message out for the English-speaking audience.



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