

01 January – 31 March

Quarter I 2017



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

FOREWORD OF THE BUSINESS OMBUDSMAN



Dear Friends, Colleagues, and Partners,

I am pleased to present the Business Ombudsman Council's report for Quarter 1, 2017.

In this reporting quarter, we took further steps to improving Ukraine's business environment.

The Council received 264 complaints, the second largest quarterly amount since launch of operations. We undertook the largest number of investigations in the Council's history – 177. Out of 206 closed cases, we finished more than a half with desirable – either financial or non-financial – result for complainants. Our team has recovered almost UAH 10 billion from the government agencies to complainants since launch of operations.

Much of our work was traditionally generated by complaints concerning the State Fiscal Service. Although the figures in the reporting quarter say that 45% of complaints received were tax related, this marks a 16% decrease since previous quarter. Complaints keep coming regarding the actions of municipalities, which is a side effect of decentralization.

There was a rise of inquiries regarding customs issues and Prosecutor's Office actions. Although the majority of issues the BOC receives are now successfully resolved on a case-by-case basis, we wish that the government agencies put more emphasis on the implementation of our systemic recommendations.

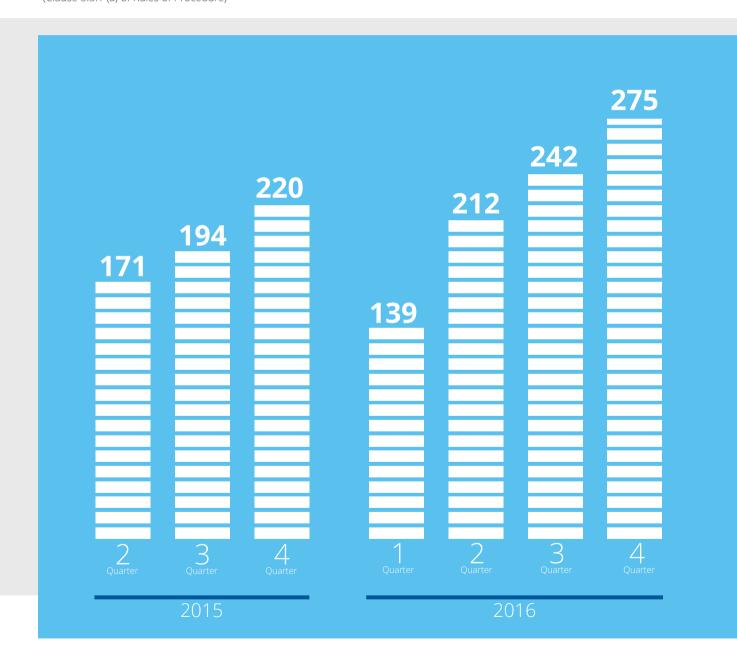
Complaints were coming predominantly from wholesalers, distributors, retailers, manufacturers, real estate, agribusiness as well as individual entrepreneurs. 7 in 10 complaints came from small and medium businesses rather than large ones. The shift is a 25% rise of inquiries from businesses with foreign investment that are more and more relying upon us to help them navigate through the challenges they face in doing business in Ukraine. Kyiv city, the Kyiv, Odesa and Kharkiv regions were most active in filing complaints.

We strongly commit to setting new standards of doing business, delivering both concrete and systemic solutions and helping more and more businesses to accelerate the pace of change.

Algirdas Šemeta Business Ombudsman

COMPLAINT TRENDS

1.1. Volume and nature of complaints received (Clause 5.3.1 (a) of Rules of Procedure)





the BOC received the second largest number of complaints since launch of operations.

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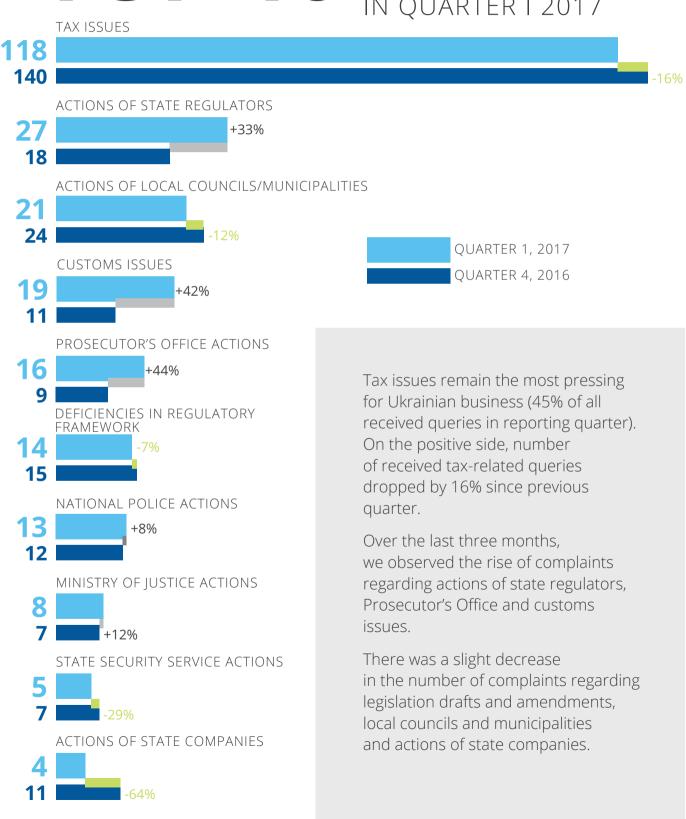
2017

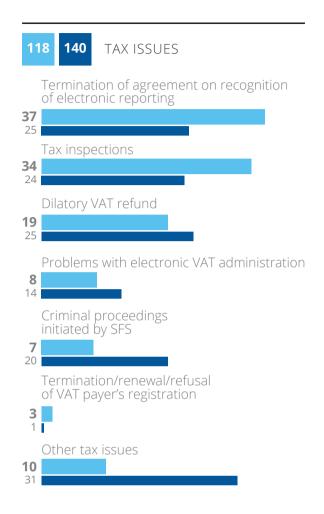
Total number of complainants received since launch of operations in May 2015:

1717

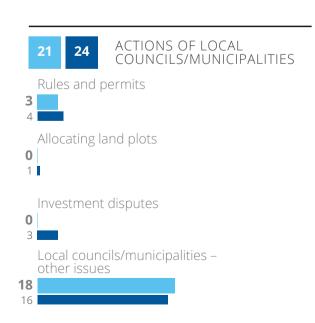
www.boi.org.ua

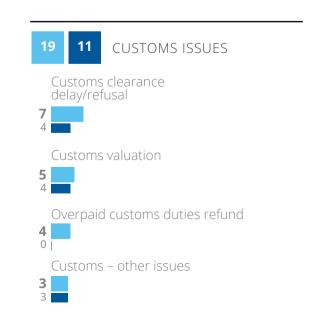
TOP-10 SUBJECTS OF COMPLAINTS RECEIVED IN QUARTER I 2017











Prosecutor's office procedural abuse

Prosecutor's office inactivity

Prosecutor's office criminal case initiated

Prosecutor's office corruption allegations

Prosecutor's office - other issues

National Police procedural abuse National Police criminal case initiated National Police inactivity National Police corruption allegations National Police corruption allegations

National Police corruption allegations

The state Security Service procedural abuse

State Security Service corruption allegations

State Security Service corruption allegations

State Security Service other issues

2

DEFICIENCIES IN REGULATORY 15 14 FRAMEWORK Deficiencies in regulatory framework state regulators 6 2 Deficiencies in regulatory framework - tax 4 Deficiencies in regulatory framework local councils/municipalities 1 Legislation drafts/amendments 1 Deficiencies in regulatory framework other issues

8 7 MINISTRY OF JUSTICE ACTIONS

MinJustice enforcement service

5 3

MinJustice registration service

4 11 ACTIONS OF STATE COMPANIES

State companies abuse of authority

0 2

State companies other

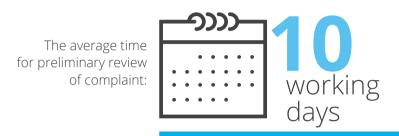
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1.2. Timeliness of the preliminary review of complaints

(Clause 5.3.1 (b) of Rules of Procedure)



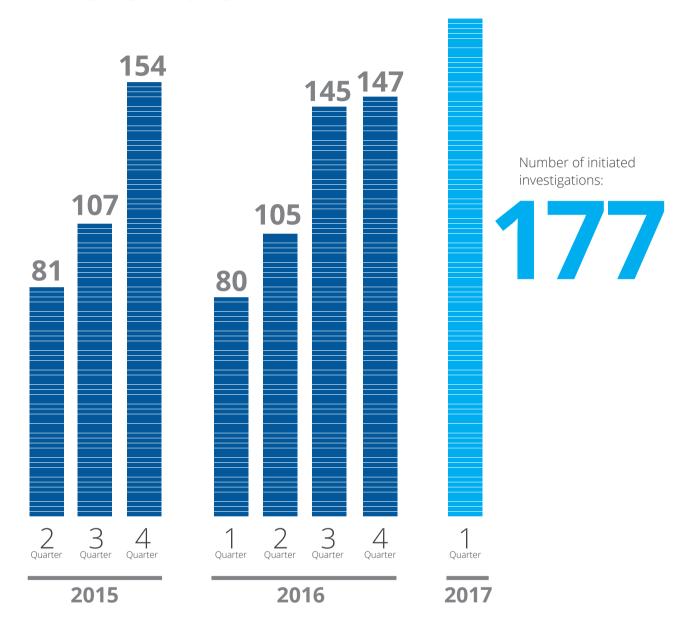
The BOC's team adheres to deadlines for preliminary assessment of inquiries indicated in the Rules of Procedure.

1.3. Number of investigations conducted and grounds for declining complaints

(Clause 5.3.1 (c) of Rules of Procedure)

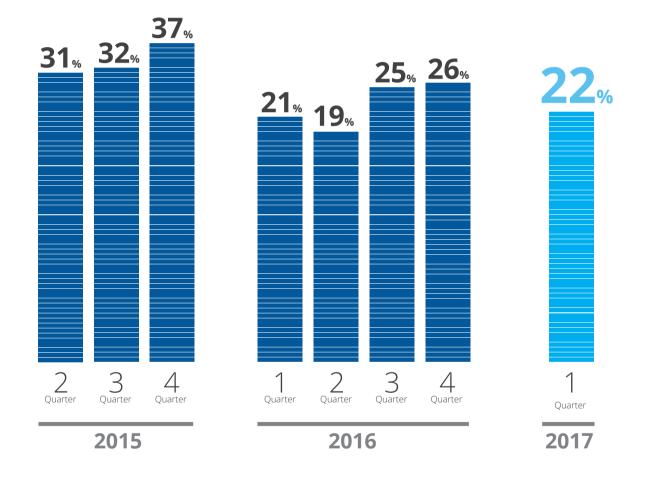


NUMBER OF INITIATED INVESTIGATIONS:

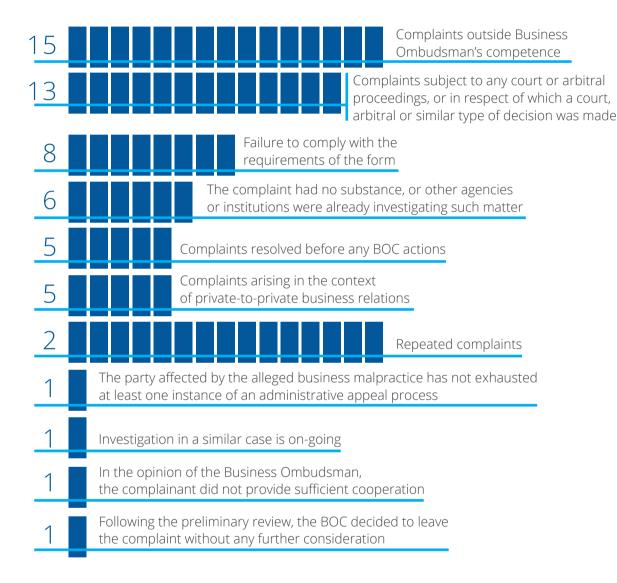


In this reporting quarter, the BOC initiated the largest number of investigations in the whole history of its operations.

RATIO OF DISMISSED COMPLAINTS:



MAIN REASONS FOR COMPLAINTS' DISMISSAL IN QUARTER I 2017



In the reporting period, the BOC dismissed 4% fewer complaints than in the previous quarter. The Business Ombudsman most frequently had to discard inquiries outside of his competence and complaints subject to court or arbitral proceedings, as well as those that failed to comply with requirements of the form.

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

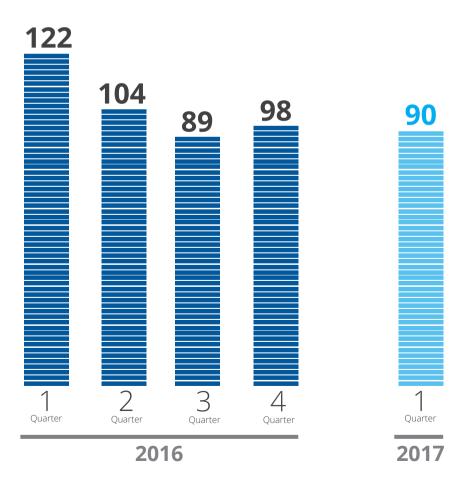
In the reporting quarter, the BOC closed



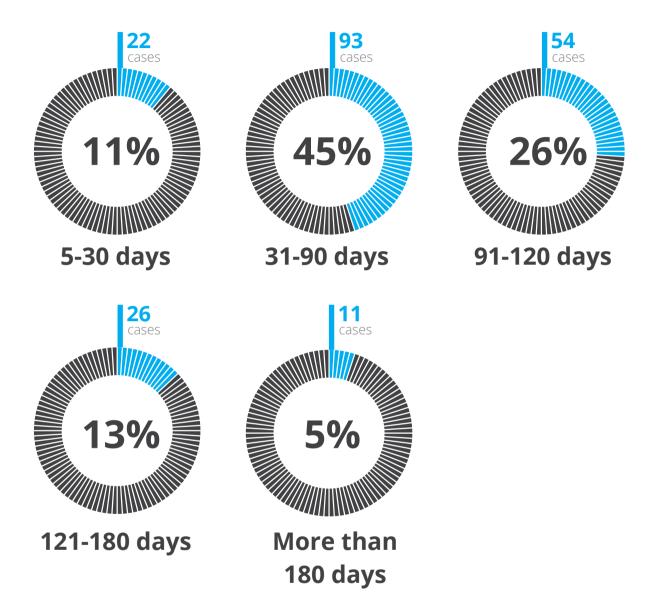
Average time for conducting these 206 investigations:



AVERAGE TIME FOR CONDUCTING INVESTIGATIONS SINCE 2016 (DAYS):



RATIO OF CLOSED CASES BY DAYS:

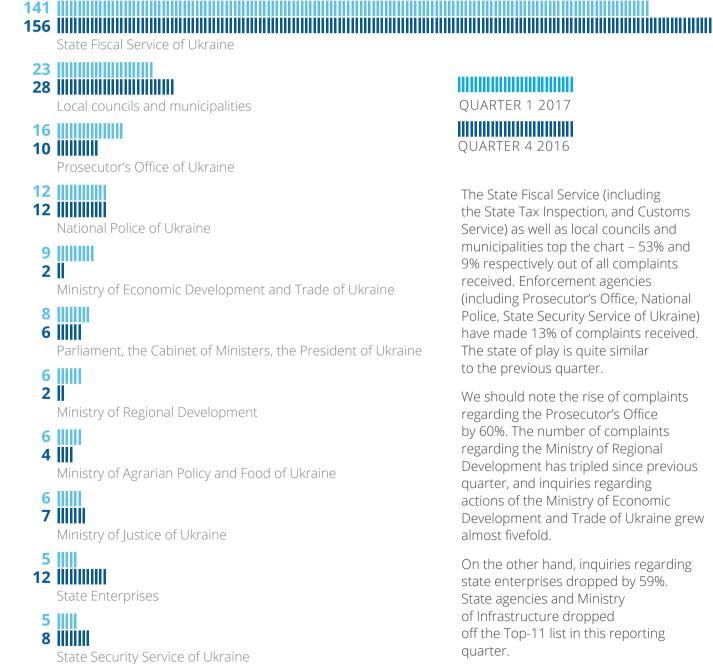


In this reporting period, the BOC's team improved timeliness of conducting investigations by 8 days in comparison to the previous quarter. The biggest part of cases – 115, which is 56% of all closed investigations in Quarter I – was conducted within 90 days. Although the cases lodged to the BOC became more complex, only 5% took over 180 days to investigate while 11% were closed in 5-30 days.

1.5. Government agencies subject to the most complaints

TOP-11

GOVERNMENT AGENCIES SUBJECT TO THE MOST COMPLAINTS



have made 13% of complaints received.

The state of play is quite similar

to the previous quarter.

QUARTER 1 2017

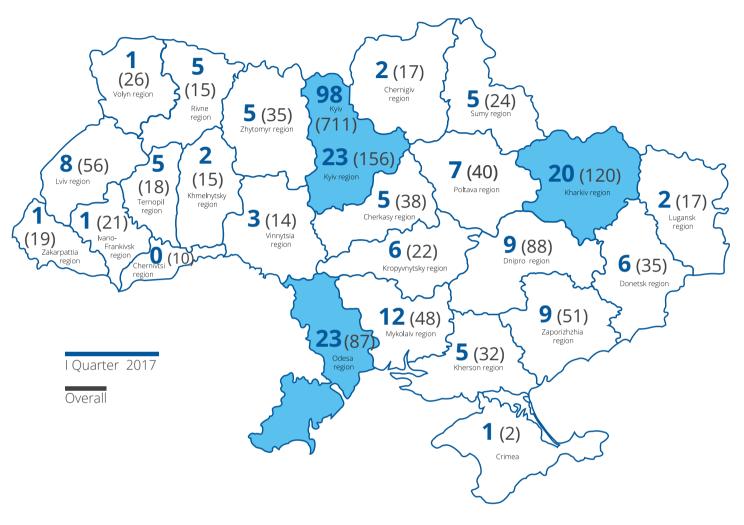
We should note the rise of complaints regarding the Prosecutor's Office by 60%. The number of complaints regarding the Ministry of Regional Development has tripled since previous quarter, and inquiries regarding actions of the Ministry of Economic Development and Trade of Ukraine grew almost fivefold.

On the other hand, inquiries regarding state enterprises dropped by 59%. State agencies and Ministry of Infrastructure dropped off the Top-11 list in this reporting quarter.

OTHER COMPLAINEES INCLUDE:

Antimonopoly Committee of Ukraine	
Ministry of Social Policy and Labour of Ukraine	2
National Commission for State Regulation of Energy and Public Utilities	2
Ministry of Ecology and Natural Resources of Ukraine	1
Ministry of Education and Science of Ukraine	1
Ministry of Finance of Ukraine	1
Ministry of Infrastructure of Ukraine	1
Ministry of Internal Affairs	1
NABU	1
State Emergency Service of Ukraine	1
State Funds	1

1.6. Geographical distribution of complaints received



THE DYNAMICS OF COMPLAINTS REMAINS STABLE:

the majority of complaints came from Kyiv city (98), the Kyiv and Odesa (23 each) and Kharkiv (20) regions.

THE FEWEST COMPLAINTS CAME FROM

Volyn, Zakarpattya, Ivano-Frankivsk and Crimea (1 complaint each). There were no complaints from Chernivtsi region.

1.7. Complainants' portrait

INDUSTRIES



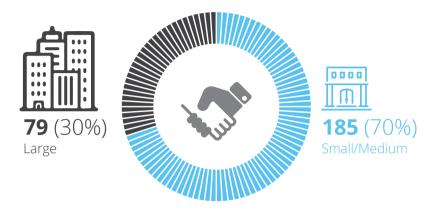
OTHER INDUSTRIES INCLUDE:

Public Organizations	6
Energy and Utilities	5
Advertising	4
Autotransport	4
Delivery services	4
Physical Person	4
Repair and Maintenance Services	4
Telecommunications	4
Transportation and Storage	4
Warehousing	4
Hire, rental and leasing	3
Accommodation services	2
Activity in the field of law	2
Auto Dealers	2
Consulting	2
Financial Services	2
Ground and pipeline transport	2
IT companies	2
Activities in the field of sport	1
Building of ships and floating structures	1
Construction	1
Consumer Services	1
Farming	1
Health, Pharmaceuticals, and Biotech	1
Maintenance of buildings and territories	1
Media and Entertainment	1
Non-profit	1
Non-state pension provision	1
Oil and Gas	1
Printing and reproduction activity	1
Private security firms activity	1
Processing Industry	1
Software and Internet	1
Technical testing and research	1
Waste collection and disposal	1

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

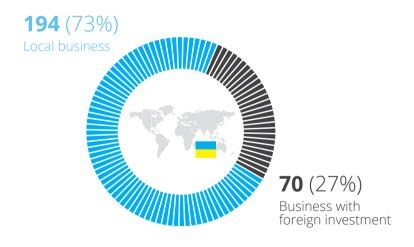
The portrait has barely changed since previous quarter.

SIZE OF BUSINESSES



7 in 10 complaints come from small and medium businesses rather than large ones, although we do not make any preferences based on the size or nature of business that submits their complaints to our office.

LOCAL VS FOREIGN COMPLAINANTS



Local business is most active in seeking the Business Ombudsman's support. Still, the number of complainants – businesses with foreign investment – grew by 25% in comparison to the previous quarter.

1.8. 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 with most in dealing with us and what areas need improvement.

少94%

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



№27/02/17-08 від 27 лютого 2017 року.

Раді бізнес-омбудсмена України вул. Спаська, 30А. Київ 04070. Україна

подяка

Шановні панове!

В результаті Вашої допомоги в законодавчому захисті інтересів ТОВ «НВО «Екософт» по Скарої №30/01/17-01 від 30/01/17, нашій компанії було адійспено часткому випату повятує на доадну вартість в розміді 34 100 072/00 грн. Даним листом, компанія ТОВ «НВО «Екософт» висловпес евою ширу подяту Радії бізнес-омбудскена України за професійний підоді, та всьому колективу Радії бізнес-омбудскена України за професійний підоді, та всьому колективу Радії бізнес-омбудскена України за професійний підоді, та всему вопективу вомунікацію та якіснай замост грам компанії. Інститут бізнес-омбудскена відновяж довіру та прозорість відносин між приватили бізнесом та державним органьми влади України. Ми високо цізіусмо Вашу роботу.

З повагою та влячністю. Директор ТОВ «НВО «Екософт»



Рачковський В.В.

The Business Ombudsman Council restores trust and transparency in relations between business and government agencies in Ukraine.

You have proved, once again, the highlevel professionalism of your team as it defends businesses in Ukraine.



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Mopes BJO.



Your assistance was extremely timely, as we could tell that existing legislation desperately needed to be amended.

Your efforts are restoring the trust of international companies, which will certainly lead to an improvement in Ukraine's investment climate.



SUMMARY OF KEY MATTERS

AND FOLLOW-UP OF RECOMMENDATIONS

2.1. Systemic issues identified

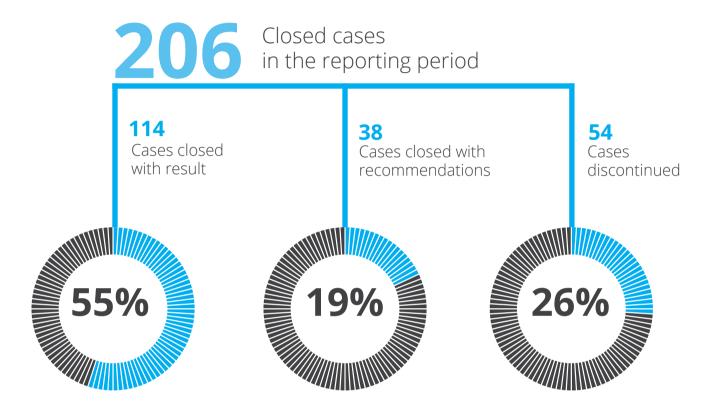
Much of the Business
Ombudsman's work
is generated by complaints
concerning the State Fiscal
Service. The figures in the
reporting quarter say that
45% of complaints received
were tax related. Although
the SFS successfully resolved
the issues the BOC gets on
a case-by-case basis, it could
do much better in systemically
changing the institution.

Also, we observed a rise of inquiries regarding customs issues and Prosecutor's Office actions. Complaints keep coming against municipalities, which is a side effect of decentralization. As local authorities get more powers, and if those powers are not properly used, that creates problems for businesses.

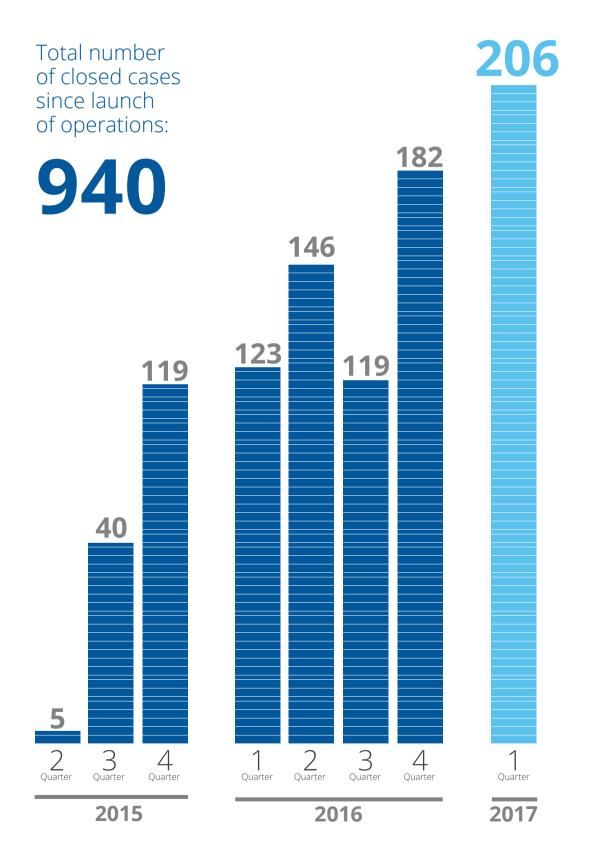
Although the majority of issues the BOC receives are now successfully resolved on a case-by-case basis, systemic shifts are still on the way. We wish the government agencies put more emphasis on the implementation of our systemic recommendations.

The significant shift is a 25% rise of inquiries from businesses with foreign investment that are more and more relying upon us to help them navigate through the challenges they face in doing business in Ukraine.

2.2. Information on closed cases and recommendations provided

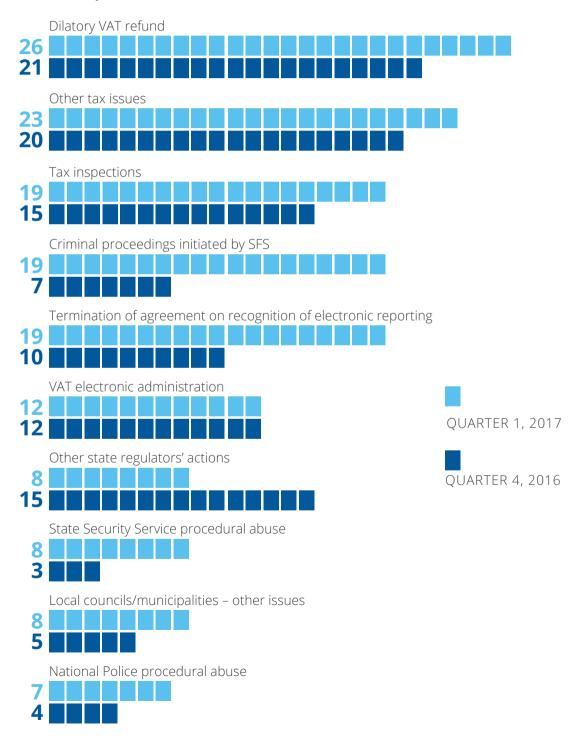


In the reporting quarter, we closed the biggest number of cases, 55% of which with desirable (either financial or non-financial) outcome for complainants.



TOP-10

SUBJECTS OF CLOSED CASES IN QUARTER I 2017:

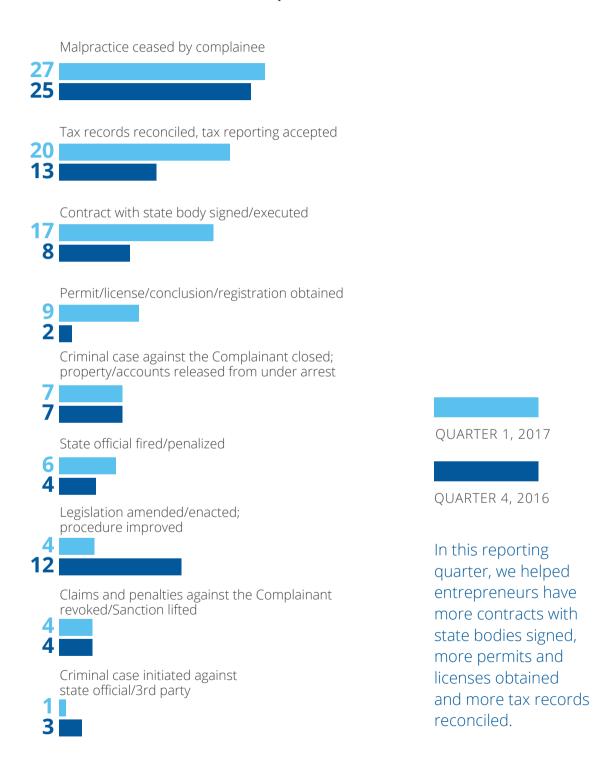


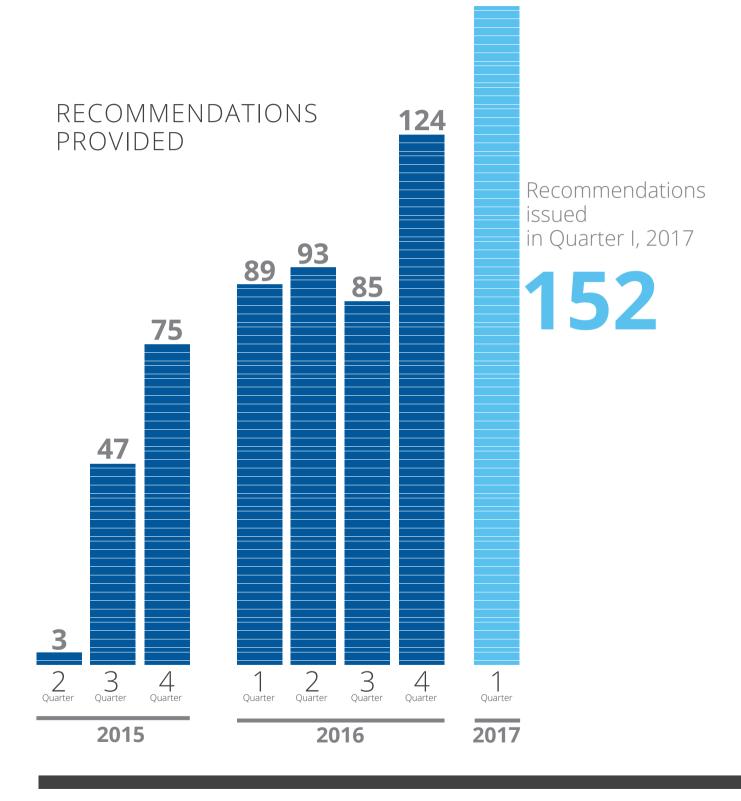


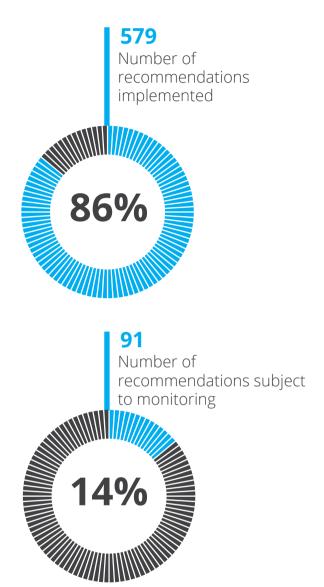
DIRECT FINANCIAL IMPACT OF BOC'S OPERATIONS 20 MAY 2015 – 31 MARCH 2017:

9 758 299 758 UAH

NON-FINANCIAL IMPACT OF BOC'S OPERATIONS IN QUARTER I 2017:





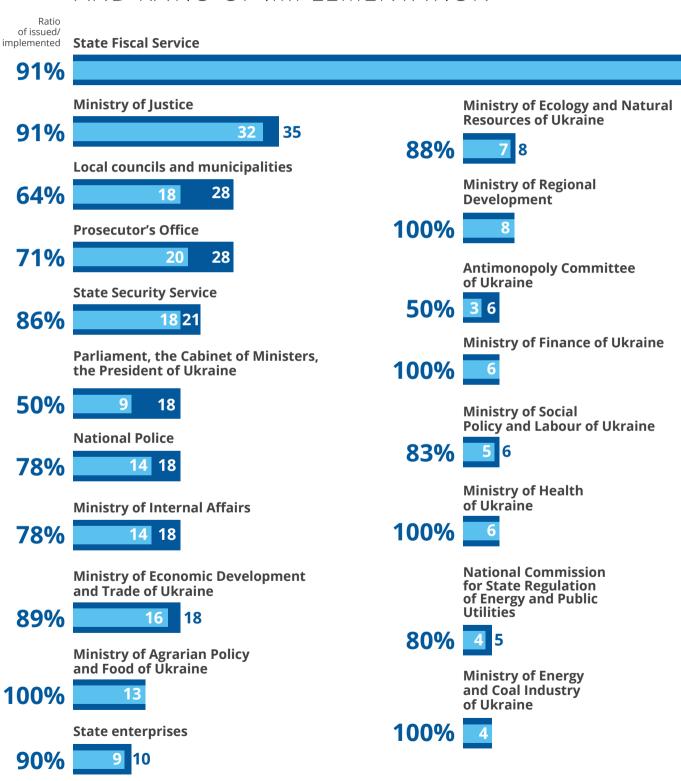


Total number of recommendations issued since launch of operations

670

We continuously monitor implementation of recommendations issued. By the end of Quarter 4, 2016, recommendations were subject to monitoring. 35 of them were implemented In Quarter 1, 2017

GOVERNMENT AGENCIES WHOM THE BOC ISSUED RECOMMENDATIONS IN 2015-2017 (CASE-BY-CASE BASIS) AND RATIO OF IMPLEMENTATION



Recommendations implemented

Recommendations issued

355

392

National Bank of Ukraine

67% 2 3

State Funds

50% 1 ²

Ministry of Infrastructure of Ukraine

100% 2

State Service of Ukraine on Food Safety and Consumer Protection

100% 2

State Emergency Service of Ukraine

100% 1

NABU

100% 1

Ministry of Education and Science of Ukraine

100%

National Council of Ukraine on Television and Radio Broadcasting

100% 1

By the end of reporting quarter, government agencies implemented 86% of all recommendations issued by the BOC since launch of operations.

Although the majority of issues the BOC receives are now successfully resolved on a case-by-case basis, we wish that government agencies put more emphasis on the implementation of systemic recommendations in the reports we publicized.

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

#1

STI renews wholesaler's e-document acceptance agreement

Subject of complaint:

Central Joint State Tax Inspection in Kharkiv

Complaint in brief:

In November 2016, the Complainant, a food product wholesaler, addressed the BOC to help challenge the baseless voiding of an agreement accepting electronic documents by the Central Joint State Tax Inspection in Kharkiv.

Actions taken:

On December 16, the BOC investigator forwarded information about the Complainant's case to the State Fiscal Service for further discussion by an expert group set up according to a Memorandum of Cooperation between the BOC and the SFS.

During an expert group meeting on December 22, the SFS representatives informed the Council that the issue had been resolved and as of December 20, the Complainant was once again able to submit documents in electronic form to tax authorities.

Result achieved:

On January 24, 2017, the Council received a letter from the Complainant confirming that the subject of his complaint had been successfully resolved. The case was closed.

Tax office signs e-document recognition agreement with TOV "Kornelius Ukraine"*

Subject of complaint:

Joint State Tax Inspection, Kyiv District, Kharkiv (Kyiv District Tax Office in Kharkiv)

Here and further in the text the complainant has kindly agreed to disclose the company for communication purposes.

#3

SFS dismisses criminal case against fertilizer wholesaler

Subject of complaint:

Operational Department, Cherkasy Oblast Main Department, State Fiscal Service

Complaint in brief:

On January 19, 2017, TOV "Kornelius Ukraine", a manufacturer of refrigeration and ventilation equipment registered in Kharkiv, addressed the BOC to challenge the failure of the Kyiv District Tax office in Kharkiv to conclude an agreement to recognize electronic documents.

The Complainant had changed registered address and sent the Kyiv District Tax office new electronic keys and two examples of the agreement to recognize electronic documents. However, the Kyiv District Tax office insisted that the Complainant's director visit their premises in person to provide an explanation for why the taxpayer's address had been changed and a copy of the new rental agreement.

Actions taken:

On January 20, the BOC investigator contacted the Kyiv District tax office in Kharkiv to discuss the Complainant's case. The tax official explained that the delay in signing the agreement was due to a standard risk assessment procedure and that the agreement to recognize electronic documents was to be signed shortly.

Result achieved:

On January 25, the Complainant confirmed that his complaint had been successfully resolved. The case was closed within just one week.

Complaint in brief:

In October 2016, the Complainant, a fertilizer wholesaler registered in Cherkasy, requested that the BOC verify the legitimacy of a pending criminal case launched against the Complainant by the Cherkasy Oblast SFS Operational Department, based on conclusions of a forensic commercial audit.

Actions taken:

In November, the BOC investigator sent requests to the Cherkasy Oblast Prosecutor's Office and the Main SFS Department to verify the legitimacy of the criminal case. The Prosecutor's Office reported that it was about to adopt a procedural decision on the criminal case. On November 22, the Complainant's case was also brought up at the meeting of SFS and the BOC representative with business owners in Cherkasy.

Result achieved:

On December 9, 2016, the Cherkasy Oblast SFS Main Department informed the Council and the Complainant that the criminal case was being dismissed. The BOC closed the case.

#4

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

Subject of complaint:

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

Complaint in brief:

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

Actions taken:

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

Result achieved:

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



Dnipropetrovsk
Customs stops delaying
customs clearance
of wholesaler's goods

Subject of complaint:

Dnipropetrovsk Customs, State Fiscal Service (SFS)

Complaint in brief:

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

Actions taken:

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

Result achieved:

On December 2, the Complainant informed the BOC that customs cleared its goods. The case was closed less than in a month.

#6

SFS refunds farming enterprise VAT worth over UAH 44mn

Subject of complaint:

Main Department of Kherson Oblasts State Fiscal Service (Kherson Oblast SFS)

Complaint in brief:

The Complainant, a farming enterprise, turned to the BOC regarding the Kherson Oblast SFS office's failure to refund VAT worth over UAH 44mn for August-October 2016.

Actions taken:

In December 2016, the BOC addressed officials at the Kherson Oblast SFS office with a request to stop violating the Complainant's rights. The BOC also submitted Complainant's issue for consideration at a meeting of the working group between the SFS and the BOC.

Result achieved:

On December 26, the Complainant informed the BOC that a VAT refund of UAH 28mn had been received. On February 1, 2017, the Complainant informed the BOC that the outstanding VAT liability had been refunded in full. The case was closed.

SFS enacts agreement on recognition of electronic reports with trading company

Subject of complaint:

Eastern Joint State Tax Inspection in Kharkiv (Eastern tax office in Kharkiv)

Complaint in brief:

The Complainant, a small trading company, addressed the BOC to help rectify the inability of the Eastern tax office in Kharkiv to accept electronic filings. In January 2017, Complainant sent renewed Agreement on recognizing electronic reports to the Eastern tax office in Kharkiv due to change of the company's management. Eastern tax office refused to accept the Agreement grounding on alleged mismatch of location of Complainant with the statement from Unified Register of Businesses and Organizations. The second Complainant's application to the Eastern tax office regarding acceptance of renewed Agreement was also unsuccessful.

Actions taken:

On February 17, the BOC investigator addressed the Eastern tax office and State Fiscal Service in Kharkiv Oblast with a request to enforce the renewed agreement on recognizing electronic reports.

Result achieved:

On February 23, the Complainant informed the Council that the issue was successfully resolved.

ACTIONS OF LAW ENFORCEMENT AGENCIES

#1

SBU in Rivne Oblast stops hostile campaign against TOV Oldi*

Subject of complaint:

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

Complaint in brief:

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

Actions taken:

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

Result achieved:

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

#2

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

Subject of complaint:

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

Complaint in brief:

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

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

Result achieved:

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

#3

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

Subject of complaint:

National Police in Ivano-Frankivsk Oblast

Complaint in brief:

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

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

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

Result achieved:

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

#4

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

Subject of complaint:

Bobrovtsi Police Department in Chernihiv Oblast (Bobrovytske PD)

Complaint in brief:

On September 5, 2016, the Complainant, a livestock-breeding and grain-growing company, lodged a complaint with the BOC regarding the delay of a criminal investigation by the Bobrovtsi PD in a case where another enterprise was illegally occupying land belonging to the Complainant and had even built a fence to prevent the Complainant from entering its own land.

In February 2016, the Bobrovtsi County Court had demanded that the Bobrovtsi PD investigator look into the Complainant's request to open a criminal case, but no investigative action had been taken for more than six months.

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

The BOC investigator also discussed the progress of the Complainant's case at an expert group with the National Police.

Result achieved:

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

#5

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

Subject of complaint:

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

Complaint in brief:

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

Actions taken:

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

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

Result achieved:

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

#6

MEDT drops penalty requiring individual licensing for non-flammable insulation maker

Subject of complaint:

Ministry of Economic Development and Trade (MEDT), Main Department of Security Bureau of Ukraine in Cherkasy Oblast (SBU in Cherkasy Oblast), Cherkasy Customs under State Fiscal Service (Cherkasy Customs)

Complaint in brief:

In November 2016, LLC "Plant of thermoinsulation materials "Techno", a producer of non-flammable mineral wool insulation for the construction industry, lodged a complaint with the BOC regarding illegal actions by MEDT and SBU in Cherkasy Oblast, and Cherkasy Customs. The Complainant reported that, during June 2016, it was in the process of importing clay into Ukraine. Due to the excess weight of the clay, Cherkasy Customs issued the notice of violation of customs rules and passed this information on to the SBU. Based on the information from the SBU, MEDT decided to apply a special penalty against the Complainant by requiring individual licensing.

Actions taken:

On November 23, the BOC investigator sent a request to MEDT to ensure a thorough and impartial review of the Complainant's petition to suspend the special penalty.

Result achieved:

As a result of BOC intervention, on December 22, MEDT dropped the individual licensing requirement for the Complainant. The case was closed.

PGO restored infringed rights of LLC "Reckitt Benckiser Household and Health Care Ukraine"

Subject of complaint:

Podil Department of National Police in Kyiv (the "Podil Police Department"); the Main Department of Counterintelligence Protection of the State Interests in the Sphere of Economic Security of State Security Service of Ukraine (the "MD for Economic Security of the SSU").

Complaint in brief:

On December, 2, 2016, the Complainant, LLC "Reckitt Benckiser Household and Health Care Ukraine", one of world leaders in household products, medicines and health as well as hygiene facilities, lodged a complaint with the BOC regarding criminal proceeding launched by the Podil Police Department. The Criminal proceeding was launched based on the suspicion that while registering pharmaceutical drugs "Strepsils" with the Ministry of Healthcare of Ukraine the Complainant furnished allegedly false information, thus triggering allegedly illicit decrease of the amount of taxes due to be paid by the Complainant. Operational support of the criminal proceeding was carried out by the MD for Economic Security of the SSU. The Complainant argued that within the framework of the foregoing criminal proceeding officers of the MD for Economic Security of the SSU carried out actions aimed at achieving full blockage of the Complainant's business in Ukraine, namely: seizure of the financial documentation in servicing banks; seizure from the state regulatory authority registration materials on "Strepsils" medical product; as well as approaching the Ministry of Economy and Trade with the request to impose sanction against the Complainant comprising prohibition to carry out foreign economic activity, etc.

Actions taken:

the Business Ombudsman Algirdas Šemeta personally approached the General Prosecutor of Ukraine Yuriy Lutsenko with the request to address, in his opinion, illegal actions of the Podil Police Department as well as the MD of Economic Security of the SSU

Following the meeting, the General Prosecutor gave instructions to the Public Prosecutor of the City of Kyiv to take immediate measures aimed at protecting the Complainant's legitimate rights and interests and obliged to promptly report about fulfilment of such measures.

Result achieved:

On January 24, 2017, the General Prosecutor of Ukraine informed the Complainant that the Public Prosecutor of the City of Kyiv decided to close the criminal proceeding. The Complainant thanked the Business Ombudsman Council for attention to the case and objective consideration of its merits, emphasizing that the decision to close criminal proceeding was a serious signal that would facilitate restoration of trust at the part of international companies and investors to Ukraine.

PO stops customs inspections of retailer's imported goods

Subject of complaint:

Kyiv Garrison Military Prosecutor's Office, Central Region of Ukraine (MPO), Kyiv Oblast Economic Protection Department, Main Department of National Police (Kyiv Oblast EPD)

Complaint in brief:

In October 2016, the Complainant, a retailer registered in Kyiv, addressed the BOC to help challenge procedural abuses by the Military Prosecutor's Office and the Kyiv Oblast Economic Protection Department during a pre-trial investigation of a criminal case. Specifically, the Complainant noted regular full customs inspections of imported goods that were baseless.

Actions taken:

The BOC investigator sent requests to the Prosecutor's General Office, the MPO and the Kyiv Oblast EPD to review the Complainant's case and indicate whether it was necessary to continue operative and investigative actions as part of the criminal case. In its reply, the MPO informed the BOC that the criminal case and the BOC's request had been forwarded to the Kyiv Prosecutor's Office.

On January 11, 2017, the PGO informed the Council that the Kyiv Oblast Prosecutor had initiated a criminal case over abuse of office by officials at the MPO and the Kyiv Oblast EPD. The PGO had also taken charge of both criminal cases.

Result achieved:

On January 25, the Complainant confirmed that a criminal investigation had been launched against the MPO and the EPD, and that customs inspections of its imported goods had stopped. The case was closed.

PO returns lumber seized from woodprocessing company

Subject of complaint: Prosecutor's Office in Volyn Oblast

Complaint in brief:

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

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

Actions taken:

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

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

Result achieved:

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

ACTIONS OF LOCAL COUNCILS/MUNICIPALITIES

#1

Heating company is given free access to property

Subject of complaint:

Village Council in Zhytomyr Oblast

#2

Grain grower overcomes inaction of county state administration

Subject of complaint:

Radomyshl County State Administration (Radomyshl CSA)

Complaint in brief:

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

Actions taken:

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

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

Result achieved:

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

Complaint in brief:

The Complainant, a grain grower registered in Zhytomyr Oblast, turned to the BOC with a complaint against the failure of the Radomyshl CSA to set up a special Commission to establish and compensate damage to landowners and users caused by the illegal occupation of the Complainant's territory by another enterprise. Starting in December 2015, the Complainant repeatedly submitted applications demanding that the Radomyshl CSA form a Commission and convene to consider compensation of those damages. Although the members of Commission were established, it did not convene to consider the Complainant's case. The Commission explained its delay as due to the need for the State Regulatory Service to confirm and approve a draft Regulation on determining and compensating damages.

With the BOC's assistance, it was established that there was no need to approve such type of documents with the State Regulatory Service and that there was in fact no reason for the Commission not to convene

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

Result achieved:

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

ACTIONS OF STATE REGULATORS

#1

Container maker gets SACI to sign off on completed reconstruction

Subject of complaint:

State Architectural and Construction Inspection, Rivne Oblast (Rivne Oblast SACI)

Complaint in brief:

In December 2016, the Complainant, a manufacturer of containers located in Rivne Oblast, lodged a complaint with the BOC to challenge the Rivne Oblast SACI's refusal to register the company's declarations that capital reconstruction of its industrial facility had been completed.

The Complainant claimed that the main reason for SACI's refusal to register the declarations was non-payment of a contribution to infrastructure development of the local population center. However, in accordance with the declarations, the land plot with the Complainant's facility is located outside the town.

Actions taken:

The BOC investigator requested the Rivne SACI to clarify the legal grounds for its refusal to register the Complainant's declarations. The BOC investigator also contacted SACI permit departments in other oblasts in order to receive comparable information.

On January 16, 2017 the BOC investigator and the Deputy Business Ombudsman raised the Complainant's case at a meeting with SACI's national leadership. It was agreed that SACI HQ would arrange an internal meeting to make sure its territorial offices followed the same procedures in similar cases.

Result achieved:

Following the BOC's involvement, the Complainant informed the Council on January 25 that the Rivne SACI had registered its declarations. The case was closed successfully.

#2

GeoCadastre issues extract of technical documentation to enterprise with foreign investment

Subject of complaint:

State Geodesy, Cartography and Cadastre Service in Sambir County, Lviv Oblast

Complaint in brief:

The Complainant, an enterprise with foreign investment (EFI) located in Lviv Oblast, lodged a complaint with the BOC to challenge the Sambir County office of GeoCadastre over dereliction of its duty to issue extracts of technical documentation on the standards for cash value assessments of land with the proper coefficient for an industrial enterprise.

Actions taken:

In January 2017, the BOC investigator addressed the Sambir County office of GeoCadastre with a request to act on the Complainant's request. In its reply, GeoCadastre informed the Council that it would issue an extract of the technical documentation to the Complainant after the company submitted a new application.

Result achieved:

Following the BOC's involvement, the Complainant submitted a new request for an extract of the technical documentation on the standards for cash value assessments of land. On February 21, the Complainant informed the Council that the extract with the proper coefficient for industrial enterprises was received. The case was closed successfully.

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. Working visits

In the reporting period,
Business Ombudsman
made working visits to
Poltava region where
he met with the leaders
of the Regional State
Administrations and
the representatives of
public and business
community.

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



Mr. Šemeta already visited

Zakarpattya, Kherson, Chernivtsi, Chernigiv, Kharkiv, Lviv, Odesa, Dnipropetrovsk, Donetsk, Rivne, Volyn, Cherkasy, Zhytomyr, Sumy, Ternopil, Vinnytsya, Zaporizhzhya, Lugansk and Khmelnytsky regions.

3.2. Cooperation with government agencies

The BOC continues to work tightly within the expert groups established within Memoranda signed with key government agencies. Namely, with

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

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.







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.

Outreach

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

24-01

Round Table Discussion – Ukraine's Economic Reforms in Medium-Term Perspective at CabMin

25-01 - 27-01

Seminar on Business Integrity

27-01 - 29-01

EUROPE-UKRAINE FORUM in Rzeszów, Poland

31-01

Procedural abuses at USUBC office

21-02

Annual conference on tax disputes – PwC

02-03 - 03-03

VI Ukrainian Forum on competition development

03-03

Participation in Governmental strategic session "Public administration: reboot"

17-03

Meeting with Prime-Minister and heads of lawenforcement agencies

22-03

Presentation of BOC's activities for Turkish Companies at Turkish Embassy

22-03

Presentation of BOC's activities for Dutch and Belgian companies at Dutch Embassy

23-03 I

Launch of IMF FAD Technical Assistance mission for revenue administration

24-03

Conduction of a meeting of the interministerial working group on concession legislation

27-03

The 4th Round of OECD Monitoring

31-03

BOC hosted a meeting between business community and experts of OECD/ACN anti-corruption monitoring of Ukraine

















Advocating for business with the government



The media



In this reporting quarter, our interviews were published in the leading Ukrainian media:

a news agency UNIAN; a business weekly "Biznes"; "Focus" magazine; business weekly "Dilova stolytsya" to mention a few.



We also made a number of TV (Espresso TV, ZIK) and radio appearances (Hromadske Radio, Holos Stolytsi, Radio Visti).

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

We also use social media do get our message through. The Business Ombudsman Council's Facebook account (@ BusinessOmbudsmanUkraine), launched in June 2015, reached more than 2700 followers. The BOC does not resort to any advertising campaigns and focuses on qualitative content in social media. We use Facebook to share information about our Office, our work, and news of interest in the oversight field.

The first quarter had the communications team busy with preparing the Annual Report 2016. The 140-page document with detailed description of the Council's achievements was published in early April.

Since launch of operations in May 2015, the Business Ombudsman and his Office were cited in the media

13 000+

99% mentions

being positive and constructive

(based on media monitoring by Context Media).

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









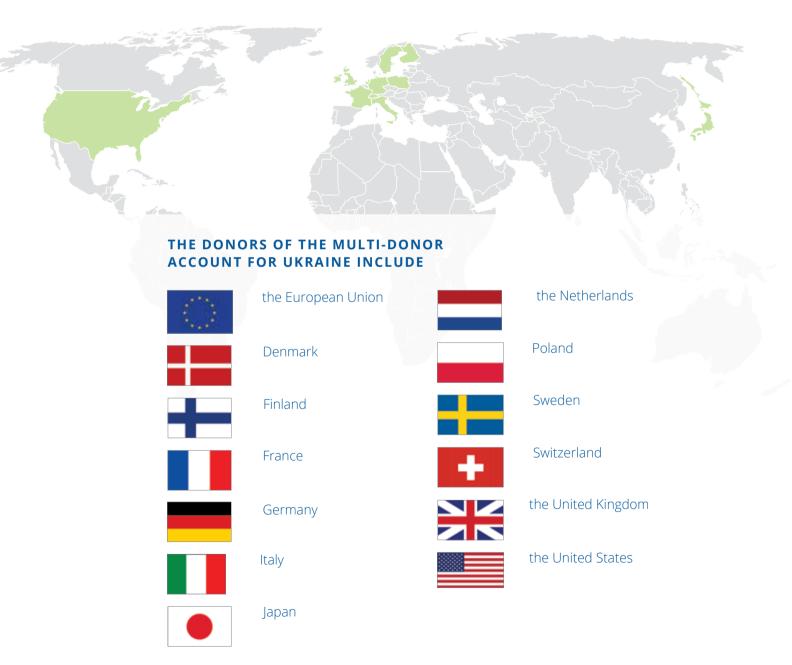




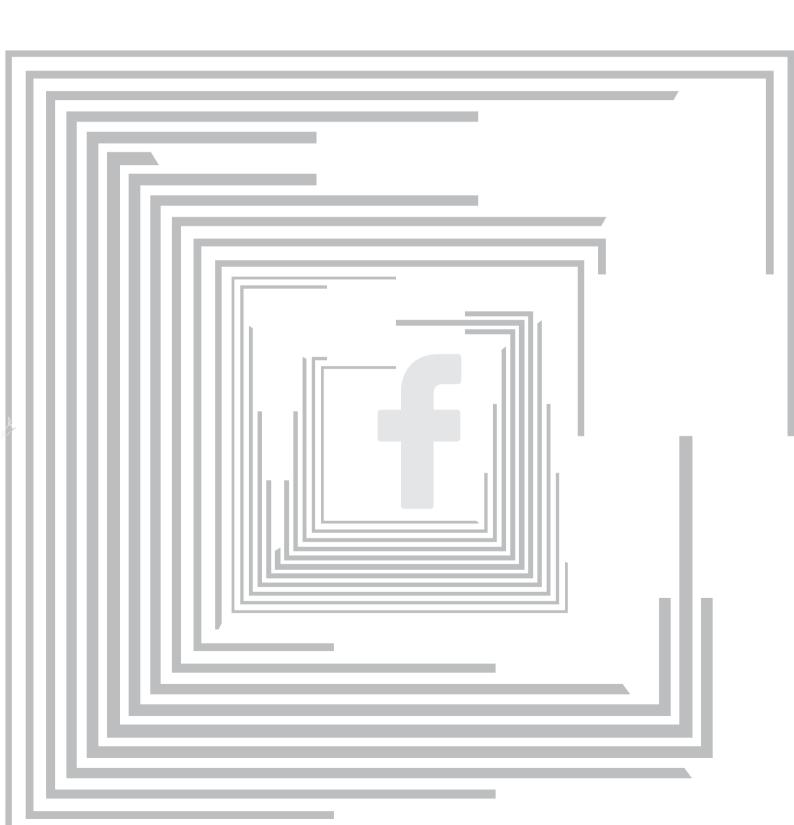
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