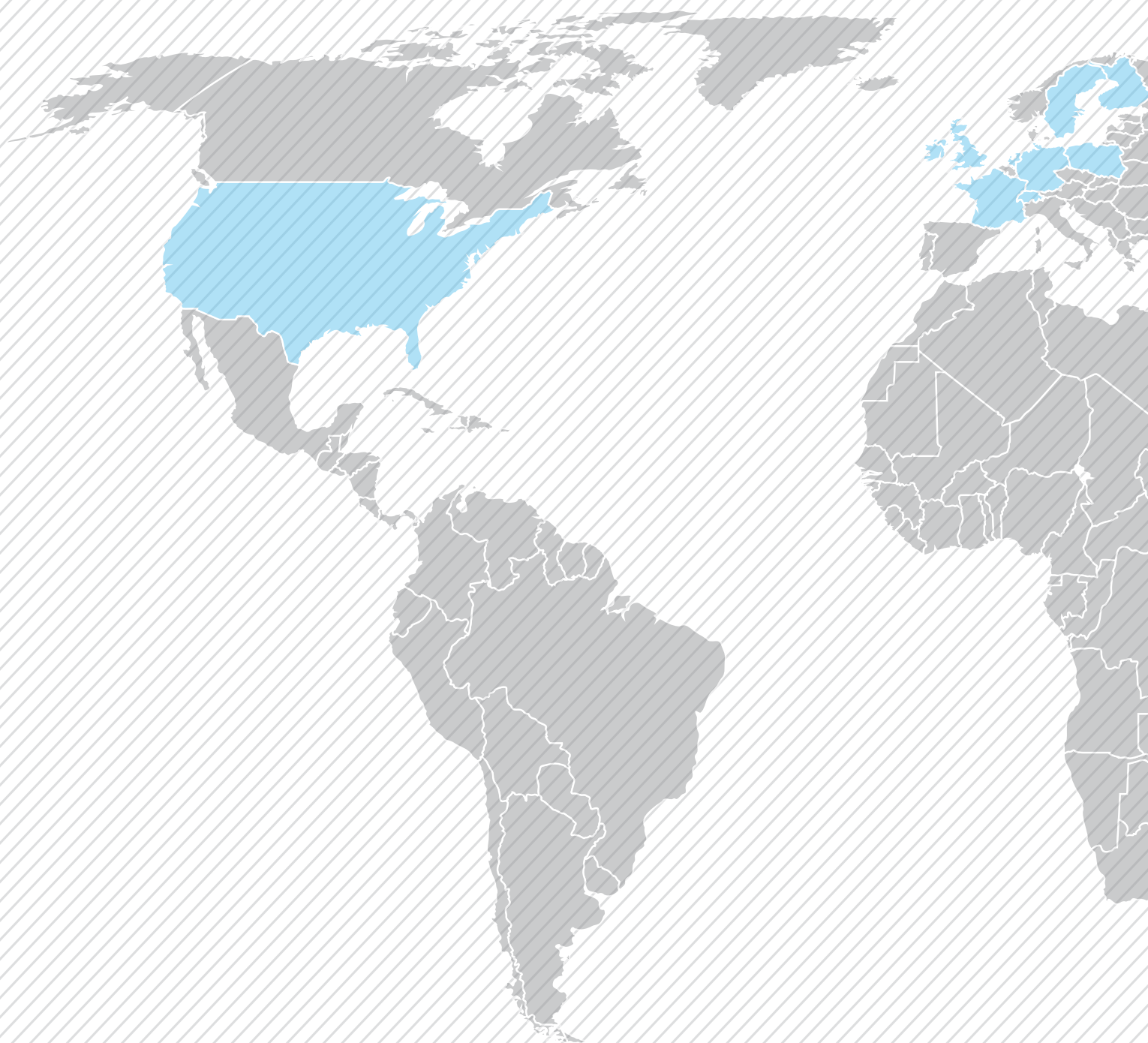


# Quarterly Report

**Quarter II, 2016**  
01 April – 30 June







The Business Ombudsman Council is funded through the Multi-donor Account for Ukraine set up at the European Bank for Reconstruction and Development (EBRD) in 2014.

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



**Algirdas Šemeta**  
Business Ombudsman

## Dear Friends, Colleagues, and Partners,

It is my pleasure to present the Business Ombudsman Council's report for Q2 2016.

In this reporting quarter, the Council received 213 complaints, the second largest amount per quarter we have ever received since the beginning of operations. After traditional business activity slowdown, the number of complaints has been growing steadily and almost doubled over the past three months.

We received 78% of inquiries from small and medium-sized businesses coming from manufacturers, wholesalers, distributors, agribusiness, mining industry, and business services. We also received a significant number of complaints from individual entrepreneurs.

Of 213 complaints received, we undertook 49% or 105 investigations, which makes the past quarter one of the most active in terms of initiating investigations since launch of operations in May 2015. I was glad to see the steadily decreasing number of the dismissed complaints in previous and current reporting quarters due to the growing awareness about our eligibility criteria. In the reporting period, the Council successfully closed 146 cases – the largest number of cases closed in any of the previous reporting periods. The direct financial impact of the cases we closed is more than UAH 529 million.

The Council signed a Memorandum of Cooperation and Information Exchange with the Ministry of the Environment and Natural Resources, to join forces in reducing corruption levels and preventing ill-spirited behavior towards businesses in Ukraine. It is the fifth memorandum we have signed with government agencies in the course of the first year of operations.

On May 31, the Draft Law of Ukraine “On Business Ombudsman Institution” #4591 was approved by Verkhovna Rada of Ukraine in

the first reading. The Draft Law is aimed at introducing institution of business ombudsman at the legislative level as non-governmental and non-profitable organization whose status is determined by the special law. We hope that the Draft Law will be adopted in autumn.

In this reporting quarter, we prepared systemic recommendations to the Government of Ukraine aimed at establishing conditions to attract investment to construction area. Overregulation, red tape and the costs related to getting permits and carrying out construction projects have managed to widespread corrupt practices that do little to encourage investment into the economy. Thus, we prepared exact suggestions how to fight this malpractice.

My working visits in the reporting quarter included traveling to Sumy, Ternopil and Khmelnytsky Oblasts where I met with the leaders of the Regional State Administrations and the representatives of public and business circles. To date, I had a chance to visit and establish mutual understanding and cooperation between the Council and the local authorities, business, and public in 12 Oblasts. I intend to further continue the working visits program to all regions of Ukraine where the Council's assistance is needed in establishing constructive dialogue about improving the local business climate.

Looking back at the beginning of the Council's operations, I cannot help seeing how our expert involvement, legal assistance, and openness to dialogue have been introducing greater change to Ukraine's investment climate – and more so every quarter. We are glad to have found our voice in the country's business environment, with our opinions heard and respected. Moving forward, we will work tirelessly to help even more businesses seeking our support for the much-needed transformation to become inevitable.



## 1 Complaint trends

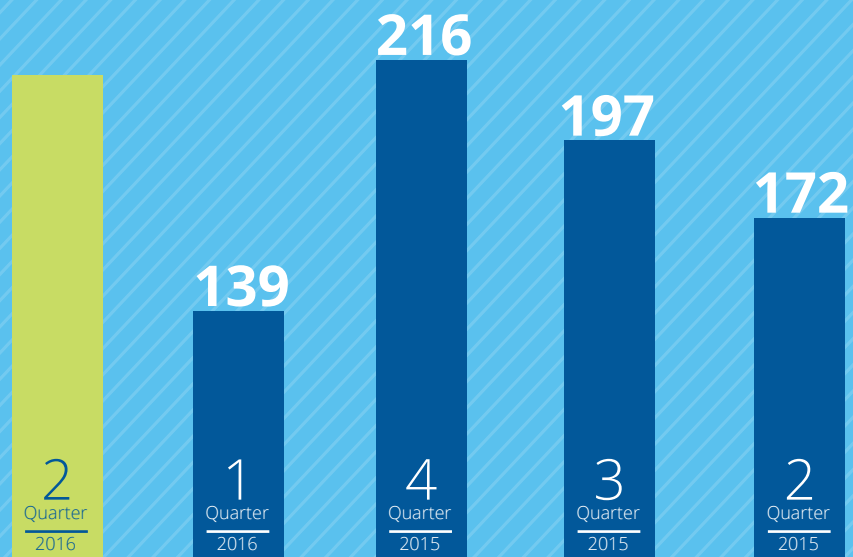
### 1.1. Volume and nature of complaints received

(Clause 5.3.1 (a) of Rules of Procedure)

In the second  
quarter of 2016,

the Business  
Ombudsman received

**213**  
complaints



The number of incoming complaints is steadily growing. After traditional slowdown in business activity in the previous reporting quarter, the number of complaints has almost doubled over the past three months.

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

**937**



# TOP-10

## SUBJECTS OF COMPLAINTS RECEIVED IN QUARTER II 2016

### TAX ISSUES

96

- 21 Problems with the electronic VAT administration
- 20 Dilatory VAT refund
- 18 Tax inspections
- 12 Criminal proceedings initiated by SFS
- 25 Other tax issues

### LEGISLATION DRAFTS/AMENDMENTS

28

### ACTIONS OF STATE REGULATORS

14

### ACTIONS OF LOCAL COUNCILS/MUNICIPALITIES

11

- 3 Allocating land plots
- 8 Other actions

### PROSECUTOR'S OFFICE ACTIONS

10

- 4 Prosecutor's Office procedural abuse
- 1 Prosecutor's Office inactivity
- 5 Other actions

### ACTIONS OF STATE COMPANIES

8

### ACTIONS OF NATIONAL REGULATORY AGENCIES

7

- 3 NERCUS actions
- 1 NBU inactivity
- 1 Other issues

### CUSTOMS ISSUES

9

- 3 Customs clearance delay/refusal
- 1 Customs valuation
- 5 Other issues

### MINISTRY OF JUSTICE ACTIONS

8

- 6 MinJustice enforcement service
- 2 MinJustice registration service

### MINISTRY OF INTERNAL AFFAIRS ACTIONS

5

- 2 MIA criminal case initiated
- 1 MIA procedural abuse
- 2 Other issues

In this quarter, the number of inquiries regarding legislation drafts/amendments grew significantly compared to the previous quarter. Over the last three months, we have received an increasing number of complaints regarding actions of state companies and actions of national regulatory agencies, namely National Bank of Ukraine and National Commission for State Regulation of Energy and Public Utilities.

## 1.2. Timeliness of the preliminary review of complaints

(Clause 5.3.1 (b) of Rules of Procedure)



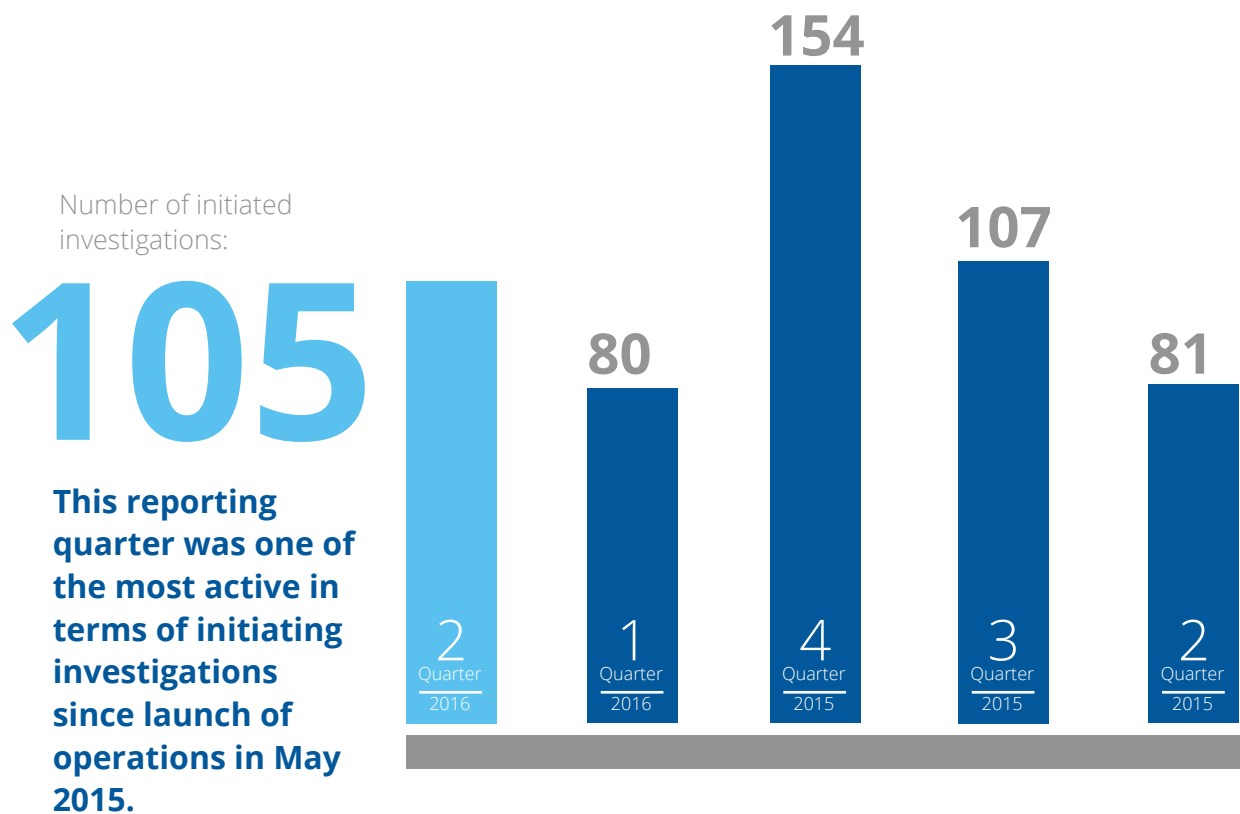
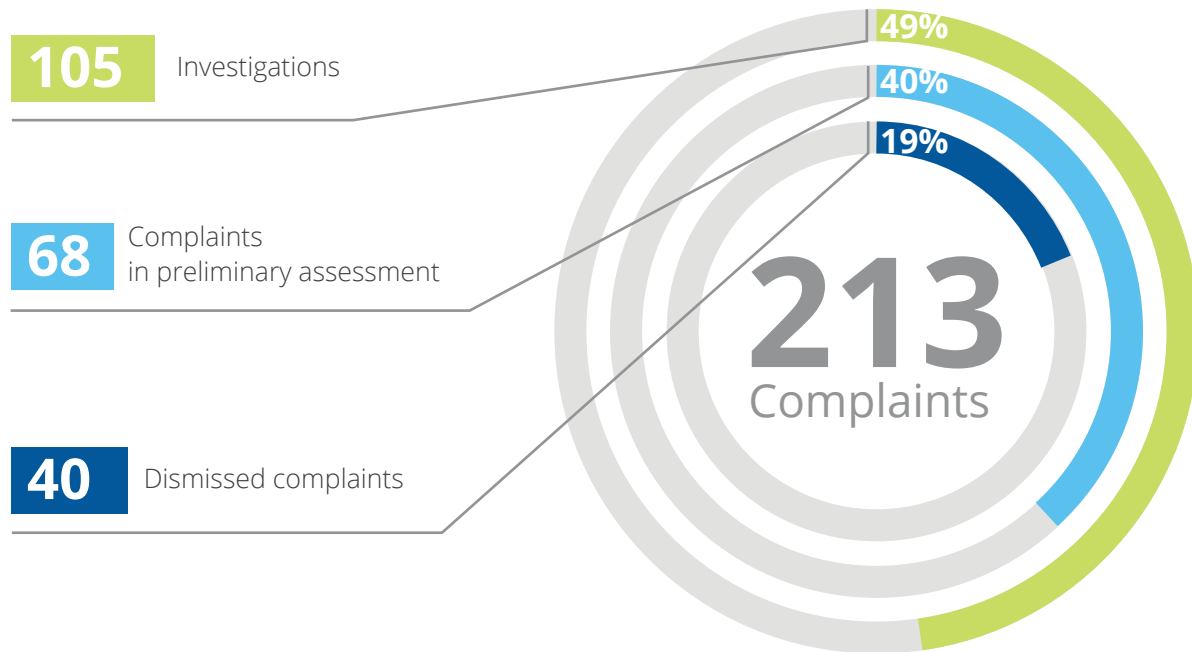
The average time  
for preliminary  
review of complaint:

**11**  
working  
days

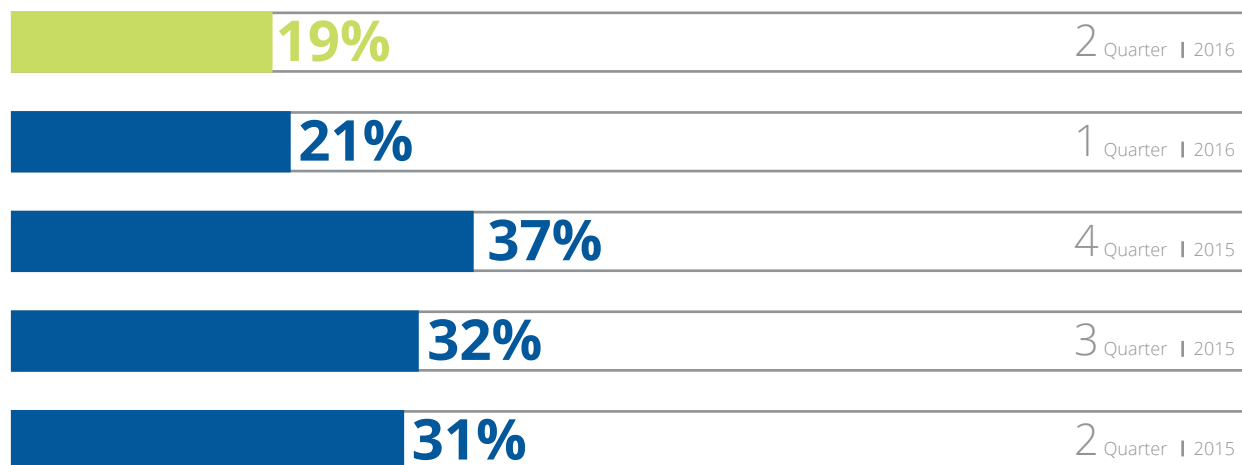
We are receiving an increasing number of complex complaints where it is difficult to determine at once if they fit the eligibility criteria or not. That is why they require more time for analysis and gathering additional data.

### 1.3. Number of investigations conducted and grounds for declining complaints

(Clause 5.3.1 (c) of Rules of Procedure)



## RATIO OF DISMISSED COMPLAINTS:





## MAIN REASONS FOR COMPLAINTS' DISMISSAL IN QUARTER II 2016



In the previous and current reporting quarters, we are observing the lowest ratio of dismissed complaints compared to previous reporting quarters. The trend testifies that awareness about our eligibility criteria keeps growing.

## 1.4. Timeliness of conducting investigations

(Clause 5.3.1 (d) of Rules of Procedure)

In the reporting quarter, the BOC closed

# 146 cases

Average time for conducting these  
146 investigations:

# 104 days

**30-90 days:**

46 cases

**91-120 days:**

61 cases

**121-180 days:**

32 cases

**More than 180 days:**

7 cases

The BOC improved timeliness of conducting investigations by 18 days compared to the previous quarter (average time for investigation was 122 days). The biggest part of cases (42%) was closed in the course of 91-120 days. The delay in conducting investigations was mostly caused by delay in responding to our inquiries on the part of both claimants and government agencies as well as complexity of investigation (i.e. necessity to analyze additional documents, make a number of calls and arrange meetings with officials involved).

## 1.5. Government agencies subject to the most complaints

# TOP-12

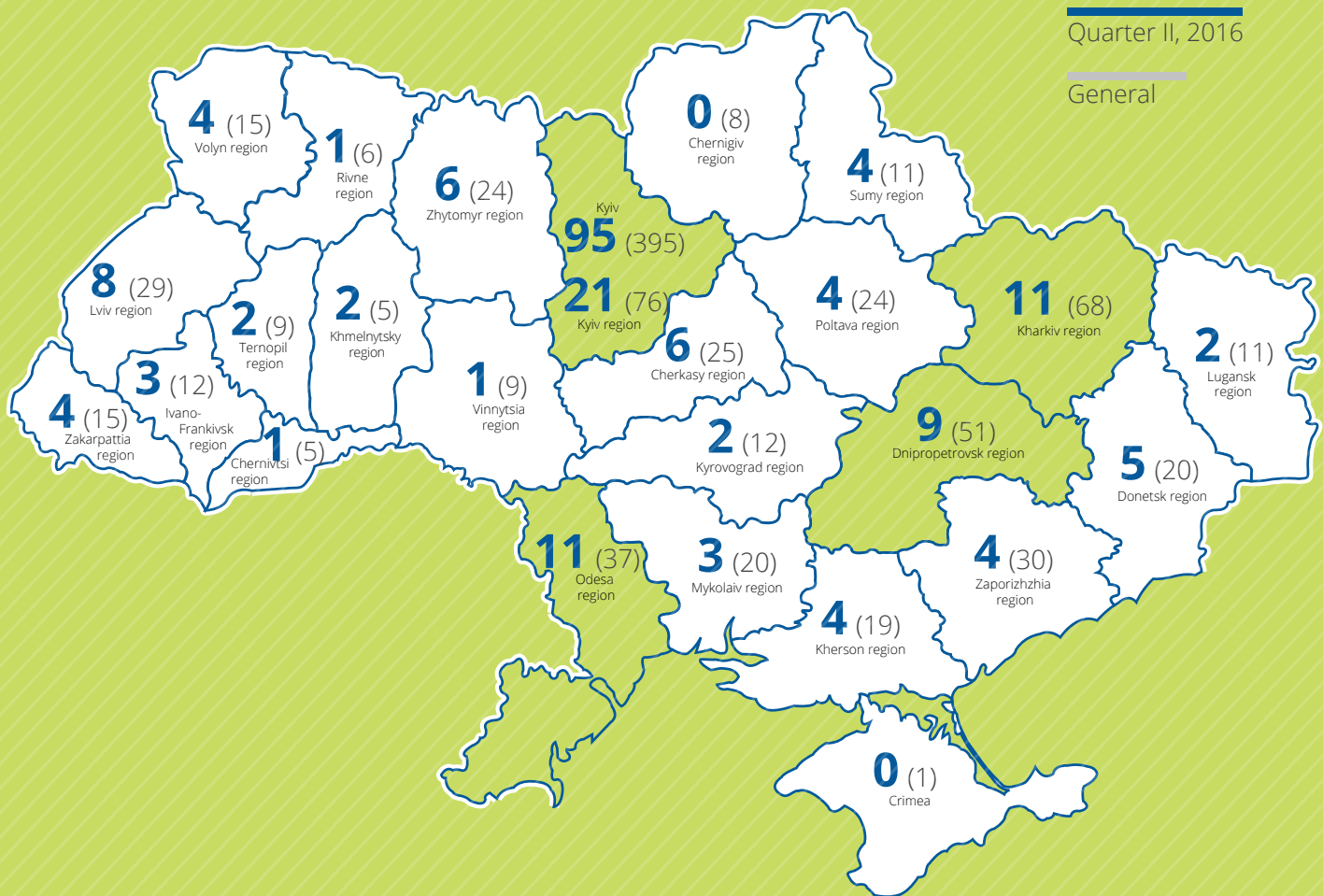
## GOVERNMENT AGENCIES



The State Fiscal Service of Ukraine (including the State Tax Inspection, and the Customs Service), as well as enforcement agencies (including Prosecutor's Office, National Police, State Security Service and Ministry of Internal Affairs of Ukraine), traditionally remained the leader of the chart. In this quarter, the number of complaints against local councils and municipalities grew significantly. The new objects of complaints appeared in the anti-ranking, such as: Ministry of Regional Development of Ukraine, National Police of Ukraine, Ministry of Social Policy and Labour of Ukraine.



## 1.6. Geographical distribution of complaints received



As in the previous reporting quarters, the biggest part of complaints came from Kyiv (95).

In descending order, complaints were also received from Kyiv (21), Kharkiv (11), Odesa (11) and Dnipro (9) regions.

The fewest complaints came from Chernivtsi, Rivne and Vinnitsya regions (1 complaint each).

We haven't received any complaints from Chernigiv and Crimea in this quarter.

## 1.7. Complainants' portrait

# TOP-6

## COMPLAINANTS' INDUSTRIES



**44**

Manufacturing



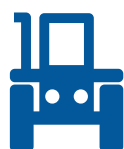
**43**

Wholesale



**31**

Individual  
Entrepreneurs



**17**

Agriculture  
and Mining



**10**

Business  
Services



**8**

Real Estate and  
Construction

We analyzed the business industries that were most active in filing complaints in this reporting period. Complaints were coming predominantly from manufacturers, wholesalers, , agribusiness, mining industry, and business services. We also received a significant number of complaints from individual entrepreneurs.

## OTHER INDUSTRIES INCLUDE:

Oil and Gas	<b>5</b>
Energy and Utilities	<b>5</b>
Farming	<b>5</b>
Public Organizations	<b>5</b>
Financial Services	<b>5</b>
Retail	<b>4</b>
Delivery services	<b>3</b>
Transportation and Storage	<b>3</b>
Software and Internet	<b>2</b>
Health, Pharmaceuticals, and Biotech	<b>2</b>
Technical testing and research	<b>2</b>
Media and Entertainment	<b>1</b>
Investment companies	<b>1</b>
Travel Recreation and Leisure	<b>1</b>
Fishing services	<b>1</b>

## SIZE OF BUSINESSES



46

Large



167

Small /  
Medium

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

## LOCAL VS FOREIGN COMPLAINANTS



82%

Local

18%

Foreign  
investment

## 1.8. Feedback

**94%**

**OF COMPLAINANTS**

said they were very satisfied/  
satisfied with working with us



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.

## 2 Summary of key matters and follow-up of recommendations

### 2.1. Systemic issues identified

Overall trends in this quarter are quite similar to those in the previous reporting quarters:

Interactions between business entities and fiscal agencies remain the most troublesome area. These include inspections by fiscal authorities, VAT electronic administration, dilatory VAT refund, and criminal proceedings initiated by SFS. The only shift is that most unlawful decisions are being carried out more at the local than the central level. It is also notable that our Office has received hardly any complaints regarding current VAT refund. The majority of complaints refer to refund of the previous periods (2014-2015).

The challenges that businesses face with local government agencies also remain largely unresolved. The range of questionable decisions made by these agencies includes issues revolving around land and the regulation of SMEs in the regions.

Action or inaction of enforcement agencies, such as excess of power during investigations and initiating criminal proceedings against business, remain the laggard in this regard.

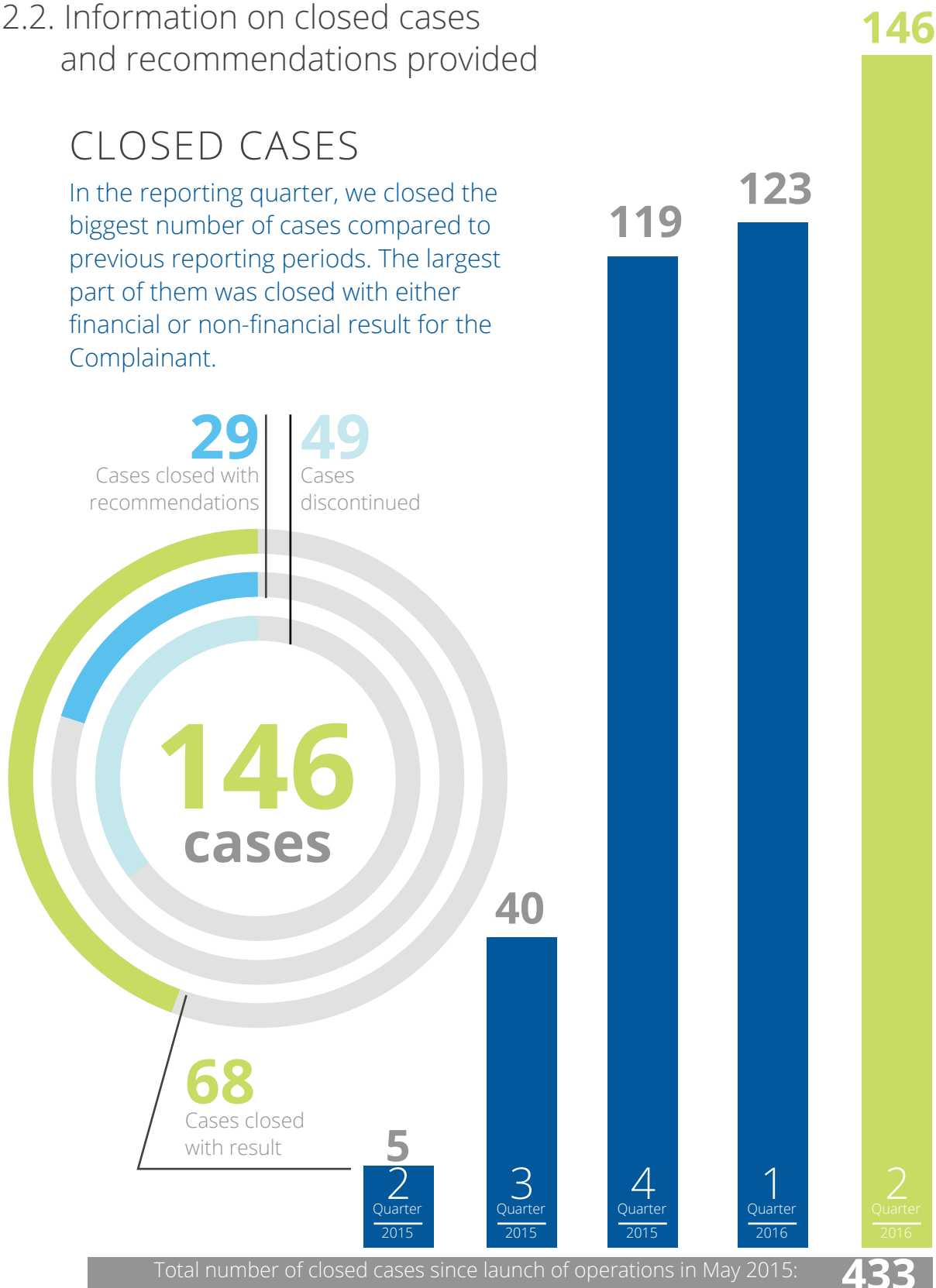
Among the positive trends are the decrease of complaints regarding registration of business and property rights. This can be explained by successful implementation of registration services reform. We have also observed the decrease of complaints regarding obtaining permits and licenses.

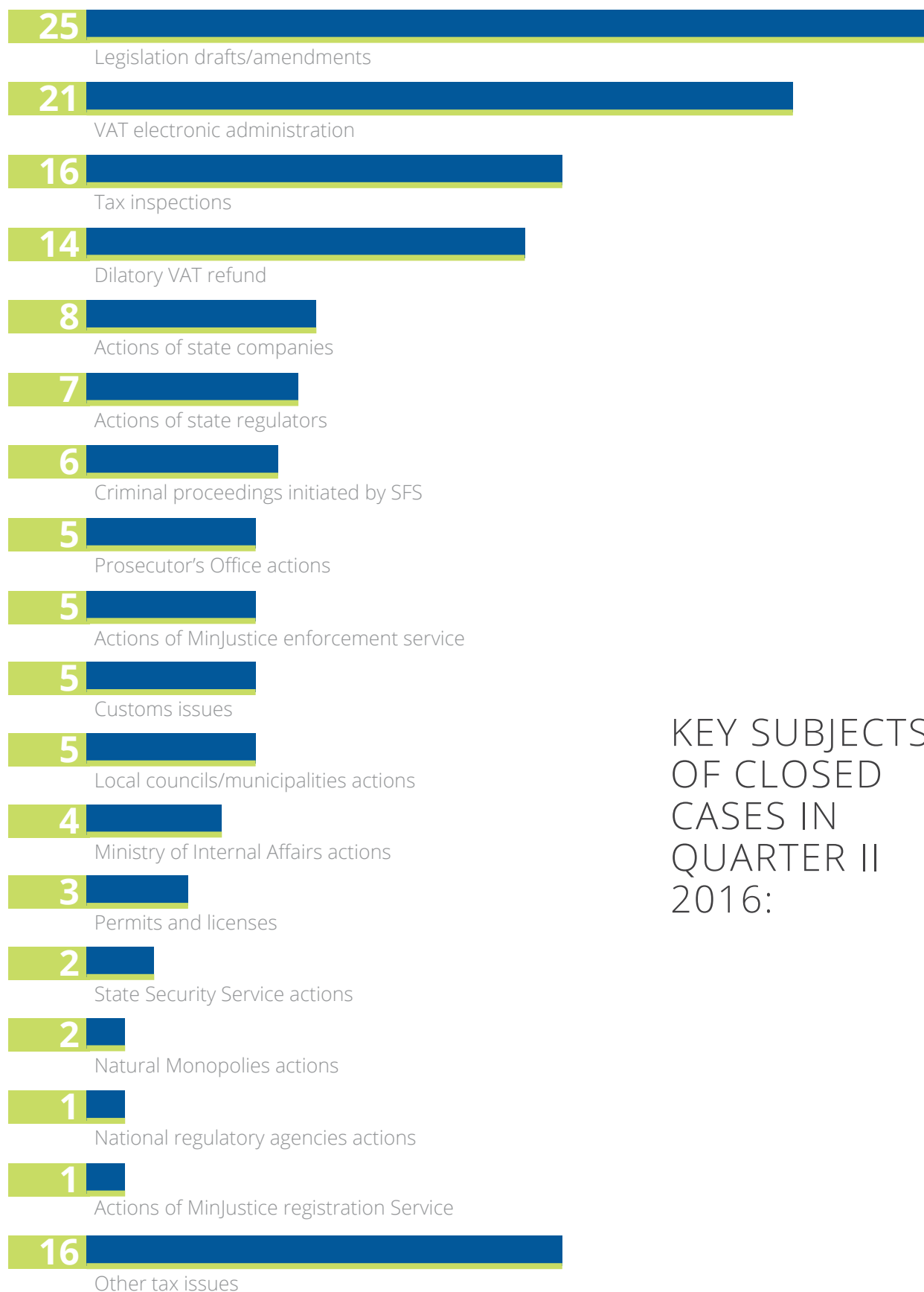
It should be noted that the BOC's dialogue with government agencies is rather productive: the rate of implementing BOC's recommendations increased from 64% in the previous quarter to 70% in the current reporting quarter.

## 2.2. Information on closed cases and recommendations provided

### CLOSED CASES

In the reporting quarter, we closed the biggest number of cases compared to previous reporting periods. The largest part of them was closed with either financial or non-financial result for the Complainant.





KEY SUBJECTS  
OF CLOSED  
CASES IN  
QUARTER II  
2016:





FINANCIAL IMPACT  
IN QUARTER II 2016:

**529 643 564**

UAH

**85%** Tax inspections

**10%** VAT electronic administration

**3%** Dilatory VAT refund



DIRECT FINANCIAL IMPACT  
OF BOC'S OPERATIONS  
20 MAY 2015 – 30 JUNE 2016:

**3 461 016 781**

UAH

## NON-FINANCIAL IMPACT OF OUR OPERATIONS IN QUARTER II 2016:



Tax records reconciled, tax reporting accepted



Malpractice ceased by Complainee



Criminal case against the Complainant closed;  
property/accounts released from under arrest



Permit/license/conclusion/registration obtained



Legislation amended/enacted; procedure improved



Claims and penalties against the Complainant revoked

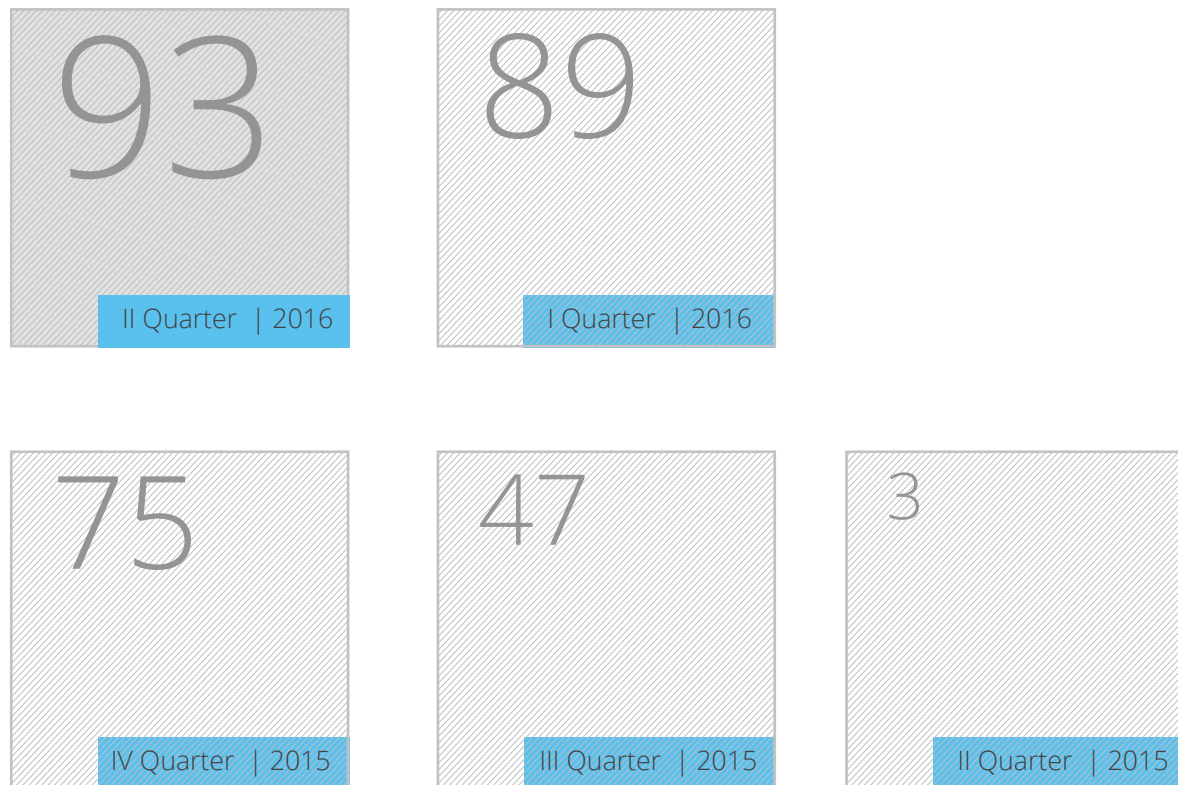


Contract with state body signed/executed



Criminal case initiated against state official/3rd party

## RECOMMENDATIONS PROVIDED



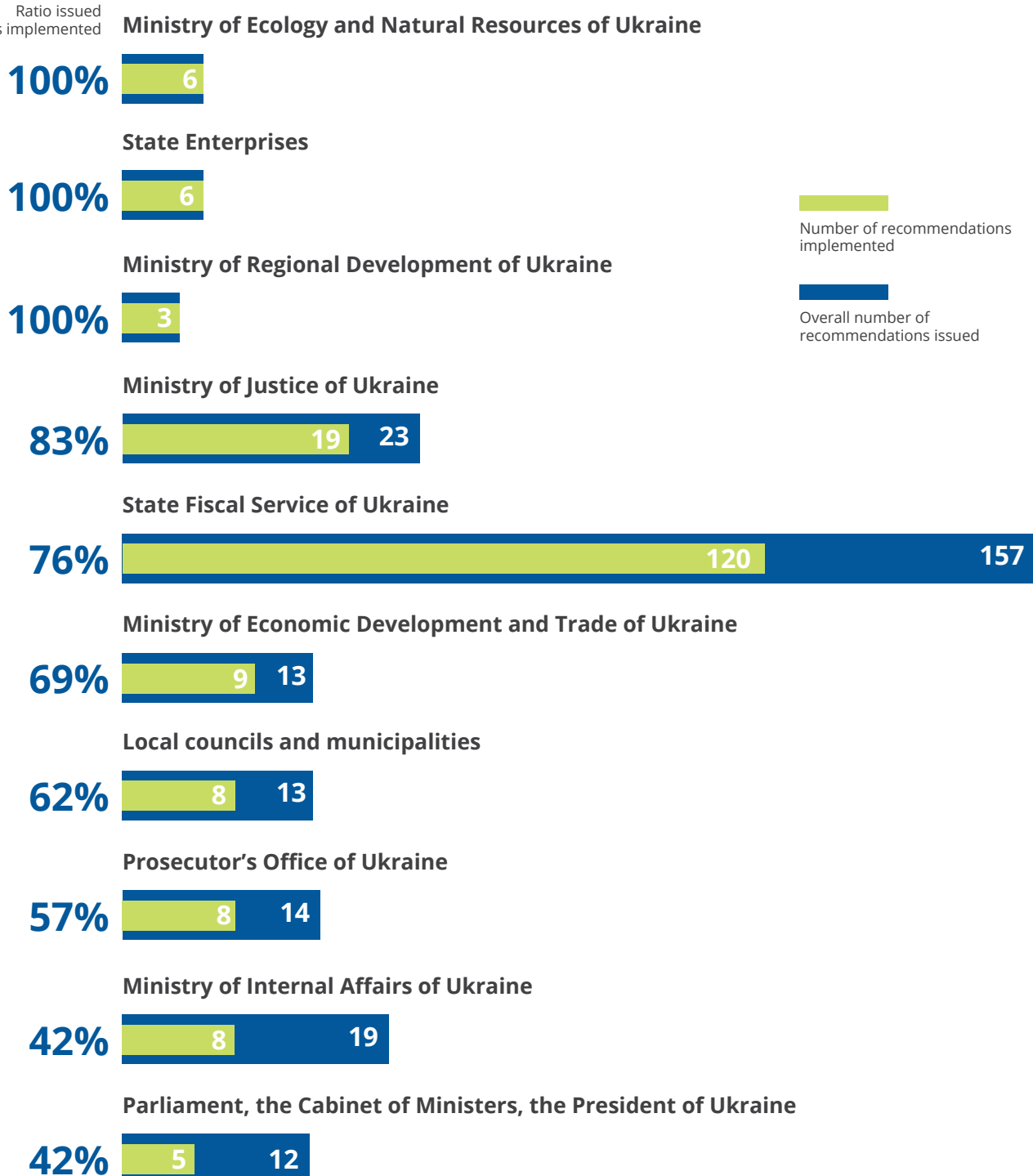
## TOTAL NUMBER OF RECOMMENDATIONS ISSUED SINCE LAUNCH OF OPERATIONS IN MAY 2015:



# TOP-10

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

Ratio issued  
vs implemented





State Fiscal Service, Ministry of Justice and Ministry of Economic Development and Trade of Ukraine have slightly improved their performance since previous quarter showing high level of cooperation with the BOC (72%, 76% and 67% recommendations implemented respectively from launch of BOC's operations by the end of Q1). Local councils and municipalities as well as Prosecutor's Office of Ukraine significantly improved their performance (46% and 18% recommendations implemented respectively by the end of Q1). Ministry of Ecology and Natural Resources of Ukraine, State Enterprises and Ministry of Regional Development of Ukraine implemented 100% of recommendations. However, the Ministry of Internal Affairs of Ukraine as well as Parliament, the Cabinet of Ministers, and the President Administration did not show any progress compared to the previous quarters.

## 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.

### #1

**Wrongful tax accruals  
and penalties runs up  
bill of UAH 387 752 514**

**Complainee:**

State Fiscal Service of  
Ukraine (SFS), Dniprovskiy  
District State Tax  
Inspection, Kyiv

### Complaint in Brief:

In February 2016, the BOC received a complaint from an automotive company related to a tax audit conducted in 2015. The Complainant claimed this had resulted in the illegitimate accrual of additional taxes and penalties. The additional tax accrued along with penalties amounted to around UAH 380 million. Disagreeing with the tax audit results, the Complainant first filed a challenge with the local tax authorities, without result. The company next filed an appeal with the State Fiscal Service of Ukraine and asked the BOC for assistance in withdrawing the tax accruals and penalties.

### Actions taken:

The BOC's investigation revealed that there were insufficient grounds to justify the heavy tax bill and recommended to the State Fiscal Service to reconsider them. The BOC, together with company officials, also participated in a hearing of the administrative appeal with the SFS.

### Result achieved:

In April 2016, the BOC received a letter from the SFS confirming that the administrative complaint was justified and the original tax rulings were revoked. The direct financial impact amounted to UAH 387,752,514. The case was prepared to be closed.

## #2

### **Complainant's property illegally retained by customs**

#### **Subject of complaint:**

(1) Odesa Customs Office of the State Fiscal Service of Ukraine (2) Investigation officer of the Investigation Department of the Security Service of Ukraine in Odesa Region

### Complaint in Brief:

The Complainant challenged the illegal retention of his property (i.e., coal with the total value of over USD 200,000) by the Complainee. The property was retained further to the request of the State Security Service of Ukraine investigating a terrorism financing case. The Complainant claimed multiple breaches of the criminal law procedures by the Complainees in the course of retention of the coal. Complainees also left the Complainant without any official response to his request to approve customs clearance of the cargos.

### Actions taken:

The BOC addressed Odesa Customs Office requesting to provide explanations what the ground for retention of the Complainant's property was. The BOC drew attention to the multiple procedural violations committed by both Odesa Customs Office and investigation officer.

### Result achieved:

In a month's term after BOC's involvement, the retained coal was released and was loaded on ship for export.

## #3

### **Failure to recognize and register digital signatures delays VAT invoices**

#### **Complainee:**

Solomianskiy District State Tax Inspection, Kyiv

### Complaint in Brief:

The Complainant, a construction company, claimed that the registration of an agreement on the recognition of electronic documents was being delayed by government agencies. Because of this delay the Complainant could not register VAT invoices electronically for a long time. According to the SFS instruction "On recognition of electronic documents" posted on its website, the standard timeframe for processing such agreements by tax inspection was 5 working days. However, 30 days after submission, Complainant's agreement still had not been activated. Numerous requests to clarify the situation and participation in "working groups" brought no result, and so the Complainant decided to turn to the BOC.



## #4

### **VAT payer registration restored**

#### **Complainee:**

State Fiscal Service of Ukraine (SFS), Solomianskiy District State Tax Inspection, Kyiv

#### Actions taken:

BOC experts met with the Deputy Director of the State Tax Inspection and the Director of the Solomianskiy District State Tax Inspection in Kyiv. They requested to be informed whether or not the agreement recognizing electronic documents was already valid and what the reasons were for putting Complainant on hold.

#### Result achieved:

Soon after the BOC's intervention, an official response was received from the Solomianskiy District STI, notifying that the Agreement was valid. The Complainant confirmed this and the case was prepared to be closed.

#### Complaint in Brief:

The Complainant, a small manufacturer, informed the BOC that he was finding it impossible to restore its VAT payer registration. The Complainant had made multiple attempts to restore its VAT payer registration, without result. The Complainant had already been waiting more than 2 months for its requests to be considered and finally asked the BOC to facilitate a response from tax authorities and recover its VAT registration.

#### Actions taken:

The BOC sent a letter to the State Fiscal Service with recommendations to ensure impartial, comprehensive consideration of the Complainant's appeal of the local SFS decision.

#### Result achieved:

After the BOC requested the national SFS to properly consider the complaint, the Service cancelled the decision of the State Fiscal Service in Kyiv. Thus, the Complainant's VAT payer registration was finally restored, and the BOC investigation was closed.

# #5

**Criminal proceedings  
launched by the  
Financial Investigations  
Department of SFS  
successfully closed**

**Complainee:**

State Fiscal Service of  
Ukraine (SFS), SFS Financial  
Investigation Department

## Complaint in Brief:

The Complainant, an asset management company, requested BOC assistance in protecting his rights and lawful interests in dealing with a criminal case. The Complainant also mentioned instances of unprofessional behavior on the part of the investigator handling this case at the State Fiscal Service's Financial Investigations Department. The Complainant claimed that, in the course of the investigation, SFS investigators had searched the Complainant's office premises. During this search, computers and other hardware were seized, paralyzing the company's normal business operations. Moreover, investigators even seized the computers and hardware of other legal entities on the premises. The Complainant believed that investigators had overstepped their authority while conducting the investigation. The Complainant asked the BOC to review the case and facilitate the restoration of the asset manager's normal business operations.

## Actions taken:

The BOC submitted to the SFS recommendations to verify the legality of the actions of investigators handling this case in the Financial Investigations Department and to take the necessary measures.

## Result achieved:

Less than in two weeks after BOC's involvement, the SFS's Financial Investigation Department informed the BOC that the criminal proceedings were closed.

# #6

**Registration of tax  
invoices is reinstated**

**Complainee:**

State Fiscal Service (SFS),  
Pechersk District State Tax  
Inspection, Kyiv

## Complaint in Brief:

In late March 2016, the Complainant filed a complaint on behalf of two legal entities registered in the Pechersk District in the City of Kyiv. During that month, both companies repeatedly experienced trouble registering their tax invoices. During each registration attempt, the STI declared that mistakes were identified in the tax invoices and requested that a company representative meet at its office for details. Yet no clear legal grounds were provided to the company representative. As a result, the commercial activity of the complainants was effectively put on hold.

## #7

### **Kyiv PO refuses to investigate breaches of procedure despite ruling**

#### **Complainee:**

Kyiv Prosecutor's Office;  
Darnytsia District STI  
Financial Investigations  
Department, Kyiv

### Actions taken:

In order to settle the matter as soon as practically possible, the BOC investigator held a conference call with the First Deputy Director of the Pechersk District State Tax Inspection in Kyiv. In the course of the call, it was identified that the STI has no reservations with respect to these taxpayers, as well as that there are no grounds for blocking the registration of VAT invoices.

### Result achieved:

Following this conversation, the STI reinstated the registration of both companies' tax invoices, which allowed them to continue normal business operations. The issue was solved within two weeks of receiving the complaint.

### Complaint in Brief:

In March 2016, a major wholesale and distribution company, filed a complaint with the BOC. On January 12, a search of the Complainant's offices had been conducted by the Financial Investigations Department of the Darnytsia District State Tax Inspection in Kyiv. The Complainant claimed that the search had involved multiple breaches of procedure and it had filed notice of a crime with the Kyiv Prosecutor's Office. However, the PO had issued a formal refusal to launch criminal proceeding based on the Complainant's claims. In February, the Darnytsia District Court in the City of Kyiv had, however, obligated the Kyiv Prosecutor's Office to register the initiation of the criminal proceeding based on the Complainant's notice submitted to the Unified Register of Pre-trial Investigations. Still, the Complainant noted, the Prosecutor's Office had failed to carry out the court ruling.

### Actions taken:

The BOC investigator noted that, according to Art. 214 of the Criminal Procedural Code of Ukraine, the prosecutor was obliged to register a notice of crime in the Unified Register of Pre-trial Investigations within 24 hours. The BOC investigator concluded that the refusal of the Kyiv Prosecutor's Office to register the Complainant's notice of crime was illegitimate. The BOC addressed the Prosecutor's Office with a letter requesting that this malpractice be investigated and all necessary actions taken to have the court ruling implemented.

## #8

**Regulator refuses to issue subsoil permit, claiming 2009 auction forged**

**Complainee:**

Ministry of Ecology and Natural Resources (MENRU), State Geology and Mineral Resources Service

## Result achieved:

In less than one month, the Kyiv Prosecutor's Office informed the BOC that the it had initiated two criminal proceedings based on the Complainant's notice, both based on Art. 365 of the Criminal Code of Ukraine, which specified responsibility for abuse of office by officers of law enforcement agencies. The criminal investigation continues.

## Complaint in Brief:

The Complainant, a subsoil user in Zakarpattia Oblast, had won in an auction of special permits for subsoil use back in 2009. However, by April 2016, the State Regulator, the State Geological Service had still failed to grant the special permit, arguing that the auction had been conducted by the Ministry of Ecology of Ukraine at the time. The State Regulator took the position that it was not bound by an illegitimate decision to issue the special permit. Nevertheless, the Complainant succeeded in obtaining a ruling by the Lviv Court of Administrative Appeal, which obligated the State Regulator to issue the permit. The State Regulator had so far failed to enforce this court order.

## Actions taken:

The BOC informed the office of the Head of the State Geological Service about the issue, as well as to the Director of SGS Legal Department. The ensuing constructive dialog led the Geological Service to recognize the existence of business malpractice and promised to eliminate the barriers shortly. This was done in a couple of days.

## Result achieved:

Within a week of lodging a complaint with the BOC, the Complainant received an original of the special permit.

# #9

## **Kyiv Environmental Dept finally renews permit after two years**

### **Complainee:**

Kyiv Municipal Department  
of the Environment and  
Natural Resources

Complainant has kindly agreed  
to disclose his name for  
communication purposes

### Complaint in Brief:

A year ago, Politon, a small company from Kyiv, filed a complaint with the BOC. Since end of 2013, the Kyiv Municipal Department of the Environment and Natural Resources had failed to renew a permit for the emission of pollutants into the air. Over the course of two years, the Department kept challenging the Complainant's documents and insisted on drafting a permit justification of the volumes of emissions the company produced.

### Actions taken:

The BOC examined the case carefully and concluded that the permit could be prolonged based on the existing documents without drawing up a permit justification. The BOC's experts met a number of times with the Kyiv Municipal Administration and Ministry of the Environment and Natural Resources. They finally went to the very top and met with Mayor Vitaliy Klitschko.

### Result achieved:

In June 2016, after more than two years of frustration, the Complainant notified the BOC that the permit had finally been extended. The case was closed and the Council received a thank-you letter from the Complainant.

# #10

## **Micro business gets roadblocks removed after a year of trying**

### **Complainee:**

National Police and  
Prosecutor's office in  
Brovary and Boryspil,  
Village Head of Velyka  
Dymerka, State  
enforcement officer of  
Kyiv Oblast Department of  
Justice

### Complaint in Brief:

In November 2015, the BOC received a second complaint from a sole entrepreneur (FOP in Ukrainian) (the first complaint the BOC received in June 2015). The Complainant claimed that the mayor of Velyka Dymerka, a village in Brovary County, Kyiv Oblast, had issued orders to restrict traffic in the area where the Complainant's shop was located by setting up concrete blocks in the roadway. This prevented free access to the Complainant's premises and affected business. The Complainant challenged the decision in the local court, unsuccessfully at first. After a series of court hearings, the claim finally seemed to be satisfied and the concrete blocks were removed. Next, however, the village council installed metal gates. The Complainant declared that her rights had not been restored yet. The criminal proceeding initiated against the village head was conducted by the local law enforcement agencies ineffectively.

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## Actions taken:

BOC investigator attended court hearing and the Council raised the case before the Expert Group of the Ministry of Justice. With the help of the Council, the Kyiv Oblast Prosecutor's Office moved this investigation from the Brovary Police to the Boryspil Police. In early 2016, the evidence related to the complaint was presented to the Chief of the National Police.

In February 2016, the Council issued recommendations to the Prosecutor and the Chief of Police of Kyiv Oblast to start an official investigation of non-effective work of the local law enforcement bodies. As a result, the Brovary Prosecutor was subject to disciplinary sanction. The Council also shared this story with media outlets.

## Result achieved:

After a year of effort on the part of the Complainant, the situation was finally resolved and she was able to return to normal business operations. The BOC received a thank-you letter from the Complainant and prepared to close the case.

## 2.4. New systemic recommendations issued to the Government of Ukraine

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

The report opens with an analysis of **problems directly related to all the phases of construction**, including: (i) lack of access to information on urban development plans, architectural issues, and territorial planning; (ii) equity contributions, which are nominally intended to improve the infrastructure of the region where the property is being developed but are today leading to serious obstacles due to corruption; (iii) the adaptation of state building norms to EU standards; (iv) land issues related to construction; and (v) issues that directly affect Ukraine's place in the Doing Business ratings such as getting an official postal address for both new and reconstructed buildings.

The recommendations in the report dedicate a special place to examining **the abuse of office in the government architectural and construction oversight and supervision agencies from different angles**: (i) licensing activity related to construction works; (ii) failure to register permit documents within established timeframes; (iii) inappropriate use of the State Architectural and Construction Inspection in the oversight process; and (iv) problems with designating construction projects according to specific categories of complexity and using declarative principles to issue construction permits.

One key way in which problems with corruption can be eliminated in the construction sector is **through transparency and public oversight**. This relates primarily to public procurements connected to construction. One important aspect of procurement legislation that needs to be worked on is adapting it to EU norms. In the light of significant development of Ukrainian legislation, it is important to create conditions to implement new forms of cooperation between the government and the private sector.



### 3 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 government.

#### 3.1. Working visits

In the reporting period, Business Ombudsman made working visits to the Sumy, Ternopil and Khmelnytsky regions where he met with the leaders of the Regional State Administrations and the representatives of public and business environment.

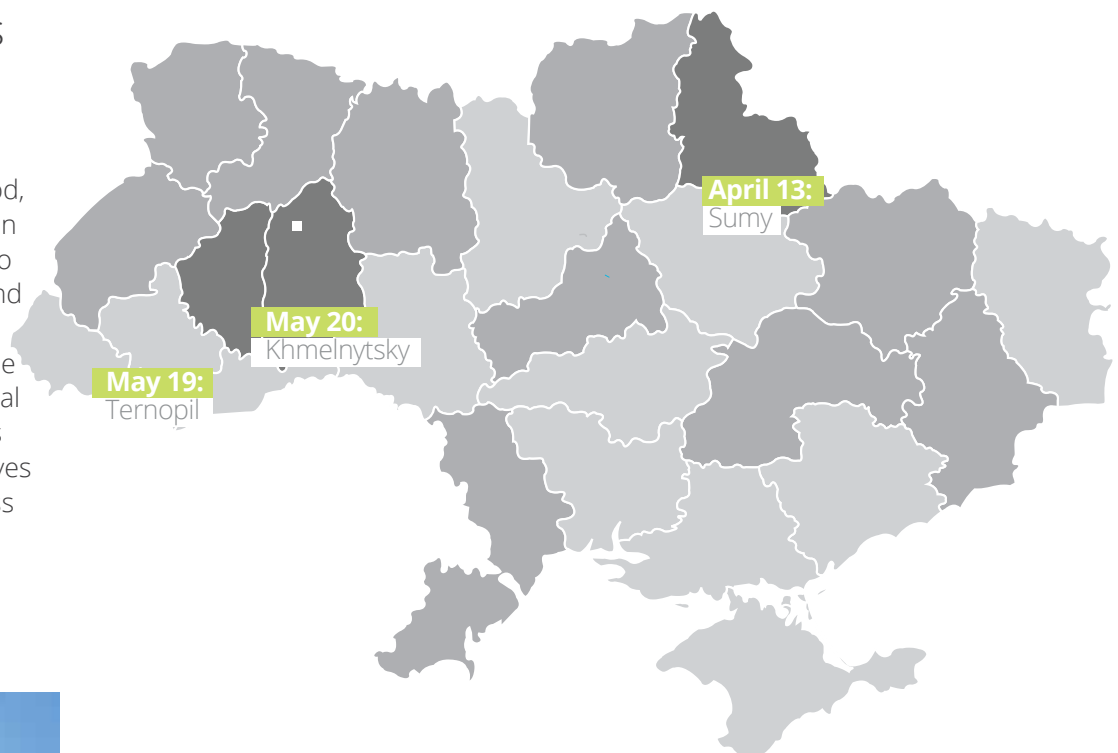


Photo: svitua.org



Photo: welovent.com

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. In the previous reporting period Mr. Šemeta visited Chernigiv, Kharkiv, Lviv, Odesa, Dnipropetrovsk, Donetsk, Rivne, Volyn, Cherkasy and Zhytomyr regions.



Photo: uatalks.com

## 3.2. Cooperation with government agencies

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



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

The provisions of the Memorandum call for the Council to provide information to the Ministry that reflects possible violations of the rights of business in the utilization of natural resources, air quality, water quality and the management of water resources, waste management, climate change, and the natural reserve funds. The two sides have agreed to hold working visits, exchange information that is of mutual interest, and assist each other in organizing and holding seminars, conferences and business get-togethers.

### PRIOR TO THIS

the Business Ombudsman Council signed Memoranda of Cooperation with

- the State Fiscal Service of Ukraine
- the State Regulatory Service of Ukraine
- the Ministry of Justice of Ukraine
- the National Anti-Corruption Bureau of Ukraine

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

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

The Draft Law introduces the notion of the “submission of business ombudsman”. The submission is the official document containing recommendations of business ombudsman, which state authorities must accept into consideration and provide well-grounded answer to.

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

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

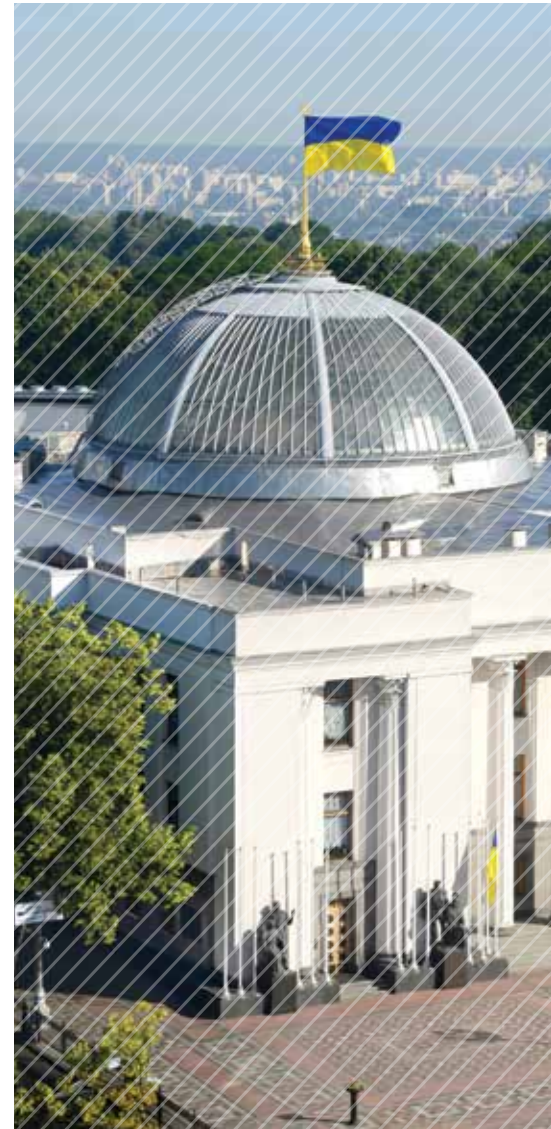


Photo: uk.wikipedia.org

### 3.3. Public outreach and communication

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

## WEBSITE

In this reporting quarter we updated the BOC's website [www.boi.org.ua](http://www.boi.org.ua) initially launched on May 20, 2015.

**It is a one-stop shop for anyone who needs**

- to submit a complaint,
- access BOC's reports, articles, find news and information about our Office,
- contact us through social media.



### UPDATES

There were

**31 381**  
page views

according to Google Analytics in the reporting quarter.

Visitors came from

**66** countries

Now users can view live statistics on the main page and track the impact (including closed cases, financial impact, etc.) of our work not only for Ukraine as a whole, but for particular regions.



## SOCIAL NETWORKS



In this reporting quarter, the number of followers of our Facebook page (<https://www.facebook.com/BusinessOmbudsmanUkraine>) exceeded 2000 users. Each post gets on average 3000 views. The BOC does not resort to any advertising campaigns and focuses on qualitative content and engagement in social media.

## OUTREACH



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

**13-04**

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

**14-04**

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

**20-04**

Forum on Protection of Business

**21-22-04**

Nordic Business Day in Odessa

**22-04**

Ukrainian Infrastructure Forum '16

**27-04**

Second National Export Support Forum

**17-05**

NEW Ukraine 2016 International Investment Conference

**19-05**

International Business Forum "Ternopil Invest-2016"

**20-05**

Ukraine – EU: Turning Challenges into Opportunities

**31-05**

STOP Corruption Conference

**07-06**

II Business Forum

**13-06**

Fifth Swedish-Ukrainian Business Forum

**13-06**

Business Forum "The white start and win"

**16-06**

USAID Conference "Leadership in economic governance"

**17-06**

Meeting of the Management Board in Ivano-Frankivsk

Our Office held a number of meetings with the officials and members of diplomatic community, namely:

Photo: ruslovoaidlo.ua



**Gennadiy  
ZUBKO**

Vice Prime Minister of Ukraine, Minister of Regional Development, Building and Housing and Communal Services of Ukraine

Photo: day.kyiv.ua



**Pavlo  
ROZENKO**

Vice Prime Minister

Photo: economics.unian.ua



**Oleksandr  
DANYLYUK**

Finance Minister of Ukraine

Photo: donpress.com



**Vitaliy  
KLITSCHKO**

Kyiv's Mayor



In April, we welcomed the delegation from Japan headed by ex Finance Minister Ms Masaru Tanaka. Our Office also welcomed French and German diplomats and IMF mission.



... and business associations  
and educational institutions,  
namely:

members of American Chamber of  
Commerce in Ukraine

members of US-Ukraine Business Council

students of International Management  
Institute





### 3.3. The media

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



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

**4700+**  
times



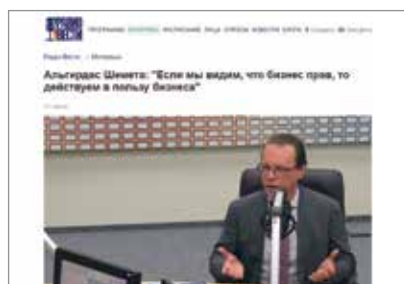
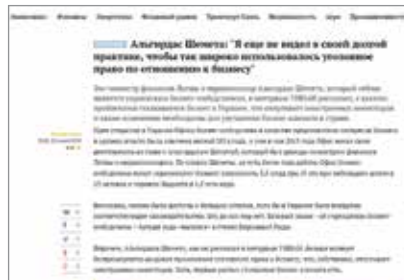
#### **Our interviews were published in the leading Ukrainian media:**

UNIAN, a news agency; Ukrainski Novyny (Ukrainian News), a news agency; KyivPost, a weekly newspaper; Novoye Vremya (New Time), a weekly magazine; Delo.ua portal; Biznes, a business weekly, Forbes, a monthly magazine; the Platforma portal; the LigaBusinessInform portal; the HUBs portal; the Ekonomichna Pravda portal; RBC Ukraine, a news agency; Ukrinform, a news agency; Vse pro buhgaltersky oblik (All about accounting), professional newspaper; Ukraine Today, an information channel.



#### **We also made a range TV**

(Espresso TV, Hromadske TV, ZIK) and **radio appearances** (Hromadske Radio, Radio Vesti).









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