

01 October — 31 December, 2019

REPORT

Q4 2019

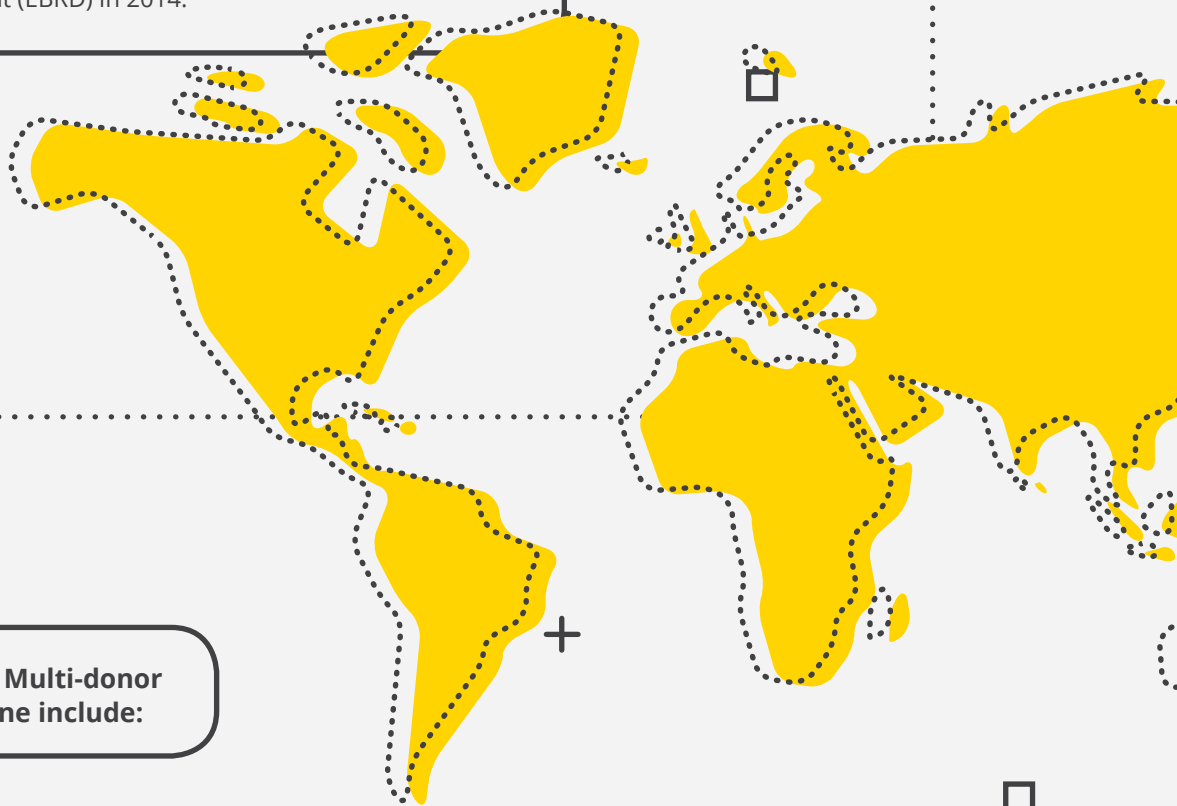
Report focus:

SMEs



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Business
OMBUDSMAN
Council

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

Dear friends, colleagues and partners,

It is my pleasure to present you the Q4 2019 report of the Business Ombudsman Council – the first period when I became fully responsible for the office's operations.

Over the past three months, businesses sought our help concerning various malpractice of state bodies for 412 times. We closed 249 cases and helped companies to refund UAH 347 mn. Beyond that, we stopped dozens of episodes of state bodies malpractice, helped complainants to close groundless criminal cases, obtain licenses and permits. State bodies implemented 91% of our case-by-case recommendations. In turn, companies' confidence in us remains robust – 96% of complainants replied to our request for feedback that they were satisfied with our facilitation.

In Q4 2019, we observed a 4% decrease in the total number of received appeals from Q3 2019, mainly due to a similar 4% slowdown in complaints on tax issues, which remain the key subject of appeals. Businesses lodged fewer appeals on tax inspections, tax criminal cases and terminated VAT payers registration. The only tax subject on a rise was the suspension of tax invoices. With respect to law enforcers' actions, a trend of appeals varied depending on the state body. Businesses complained more about procedural abuse and inactivity of the National Police in comparison with the previous quarter. We also received more appeals concerning initiated criminal cases by the State Security Service. On the contrary, companies lodged fewer complaints concerning procedural abuses and initiated criminal cases by the Prosecutor's Office. Complaints regarding malpractice of state regulators went up as compared to both Q3 2019 and Q4 2018. At the same time, appeals

concerning the Ministry of Justice went down in total, although the Enforcement Service and the Registration Department performed opposite trends.

Over two thirds of appeals (72%), received by the Council since launch of operations, were lodged by small and medium-sized enterprises (SMEs). Given the importance of SMEs complaints in the Council's portfolio, we devoted our 15th systemic report to evaluating the implementation of the State SME Development Strategy 2020 and shaping our conclusions for the future.

Having assessed the overall situation and effectiveness of the SME 2020 Strategy Action Plan, we came to the conclusion that the government should approve updated realistic support and development measures for SMEs, covering activities for all these business entities groups (micro, small and medium-sized) and supported by appropriate financial resources. In our analysis, based on the Council's statistical data and results of focus groups research with entrepreneurs, we stressed the importance of the SME Development Office and the role of local authorities to implement sound regulatory policies and control measures for SMEs that would facilitate their development. We also addressed issues of excessive control by tax authorities, necessity to improve the labor legislation, promoting exports and simplifying access to finance for SMEs. The report will be presented to the public in February 2020 and our systemic recommendations are expected to be used for further comprehensive analysis of the SME 2020 Strategy implementation measures and elaboration of state policy directions for SMEs.

We are proud to highlight several systemic wins of the quarter. As set forth in our systemic report on customs issues, in order to ensure protection of intellectual property rights while moving goods across the Ukrainian border, the Verkhovna Rada introduced respective amendments to the Customs Code of Ukraine. Following the Council's recommendation from the report on raidership, to prevent carrying out registration actions in violation of territoriality principle, the Verkhovna Rada introduced the law known as the Anti-Raidership Law 2, which effectively reinstated territoriality as one of the principles of state registration of rights. Both laws became effective in Q4 2019.

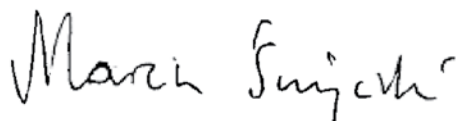
The BOC was invited to the establishment of the Government Commission on Business Protection, led by the Prime Minister. During two sessions in Q4 2019, the Commission reviewed several cases, most of them selected from those previously investigated by the BOC, but at the same time particularly important for the Ukrainian business climate.

In the light of recent changes in the government, we reloaded and strengthened cooperation with a number of public authorities. We signed Memoranda of Partnership and Cooperation with the Prosecutor General's Office, State Tax Service and State Customs

Service. These documents imply consideration of the most complex cases within special expert groups, as well as setting rules of interaction and communication, data exchange and feedback sharing between the Council and state bodies.

In Q4, our team visited 10 oblasts of Ukraine within a series of events on SMEs co-organized with USAID Competitive Economy Program, and labor law issues partnered with UNIC. Being the all-Ukrainian voice of business, we used these platforms to communicate with entrepreneurs and learn about their hopes and fears at first hand.

We, at the Business Ombudsman Council, take pride in reaffirming our commitment to the principles we've been supporting for 5 years in Ukraine already and are excited about new business challenges of 2020.



Marcin Święcicki,

Business Ombudsman



Q4 2019

at a glance

Direct financial impact:

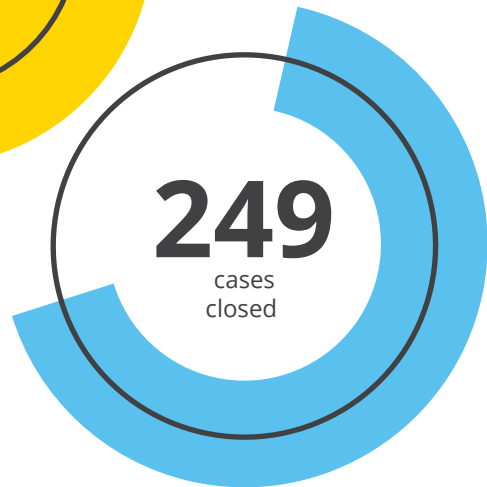
UAH **347**mn



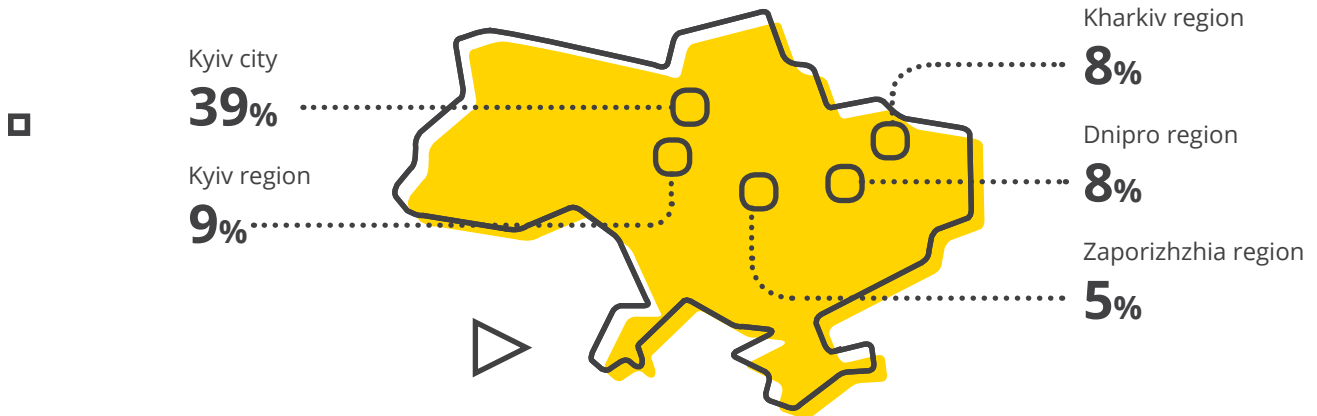
of complainants who provided feedback were satisfied with working with the BOC



of recommendations concerning individual complaints were implemented by state bodies

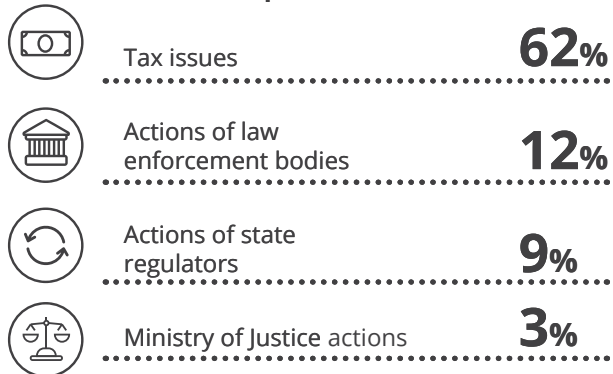


TOP-5 most active regions



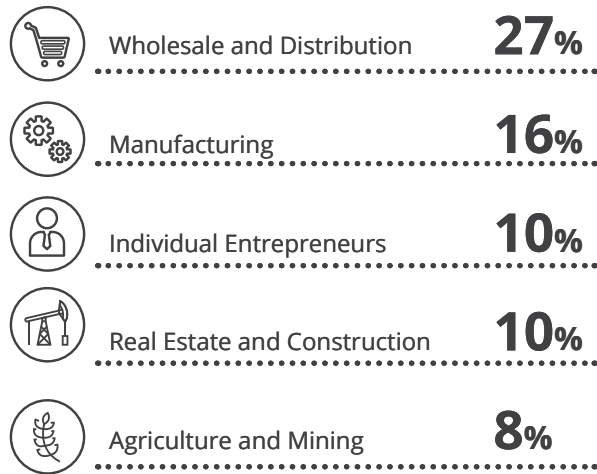
TOP-4

blocks of complaints



TOP-5

industries



Size of business



Origin of investment



2019

at a glance

Direct financial impact:

UAH

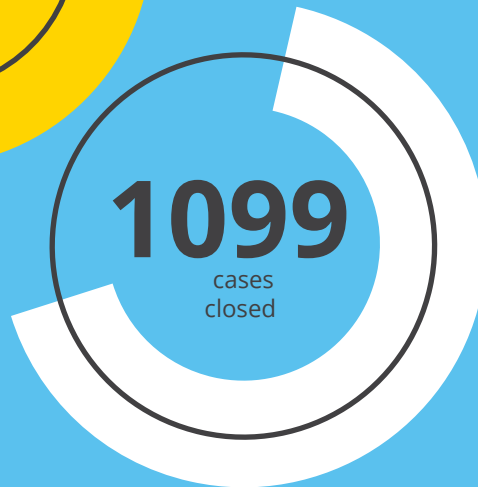
4.6 bn



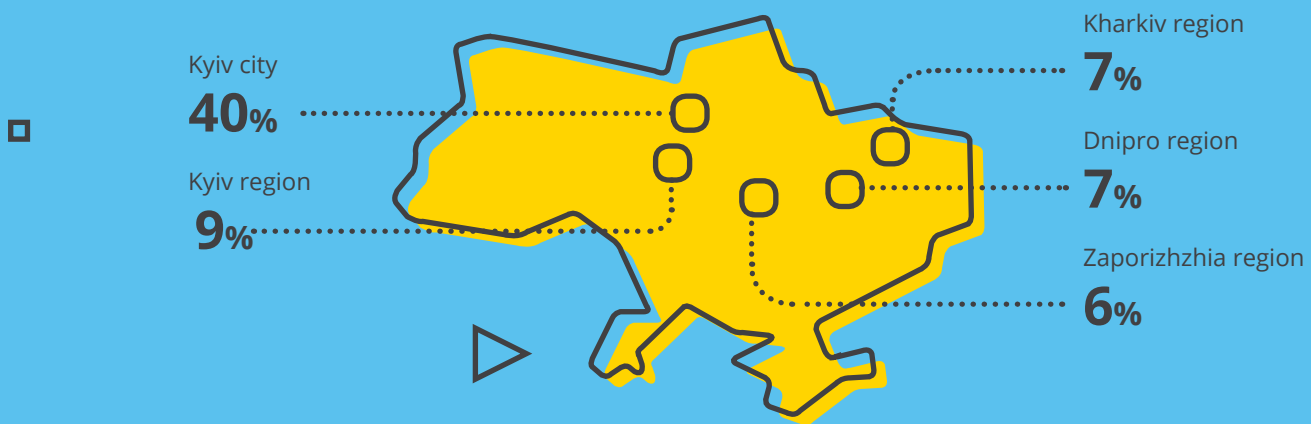
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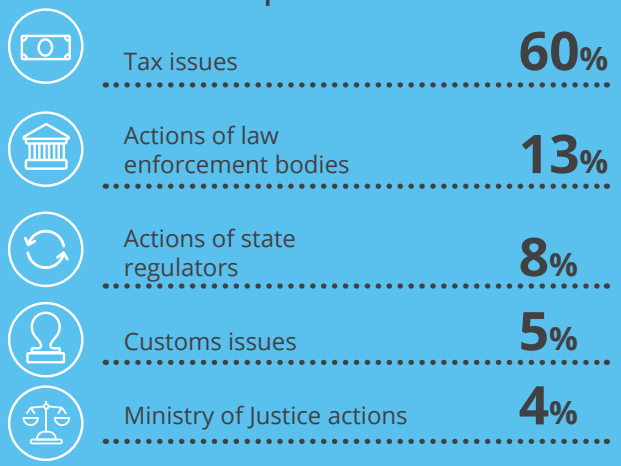


TOP-5 most active regions



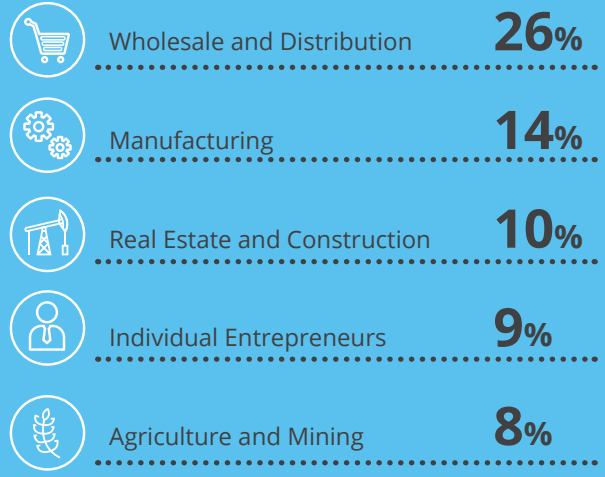
TOP-5

subjects of complaints

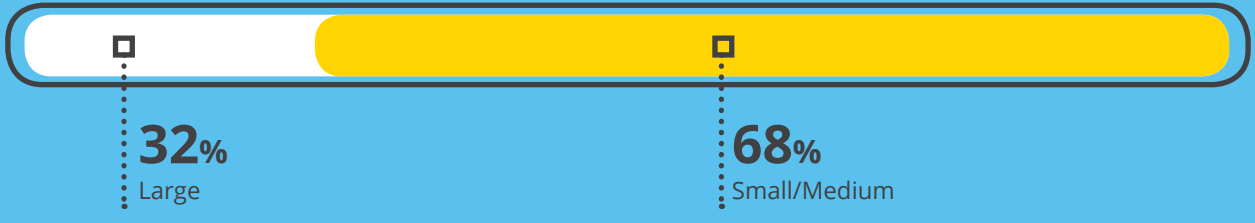


TOP-5

industries



Size of business



Origin of investment

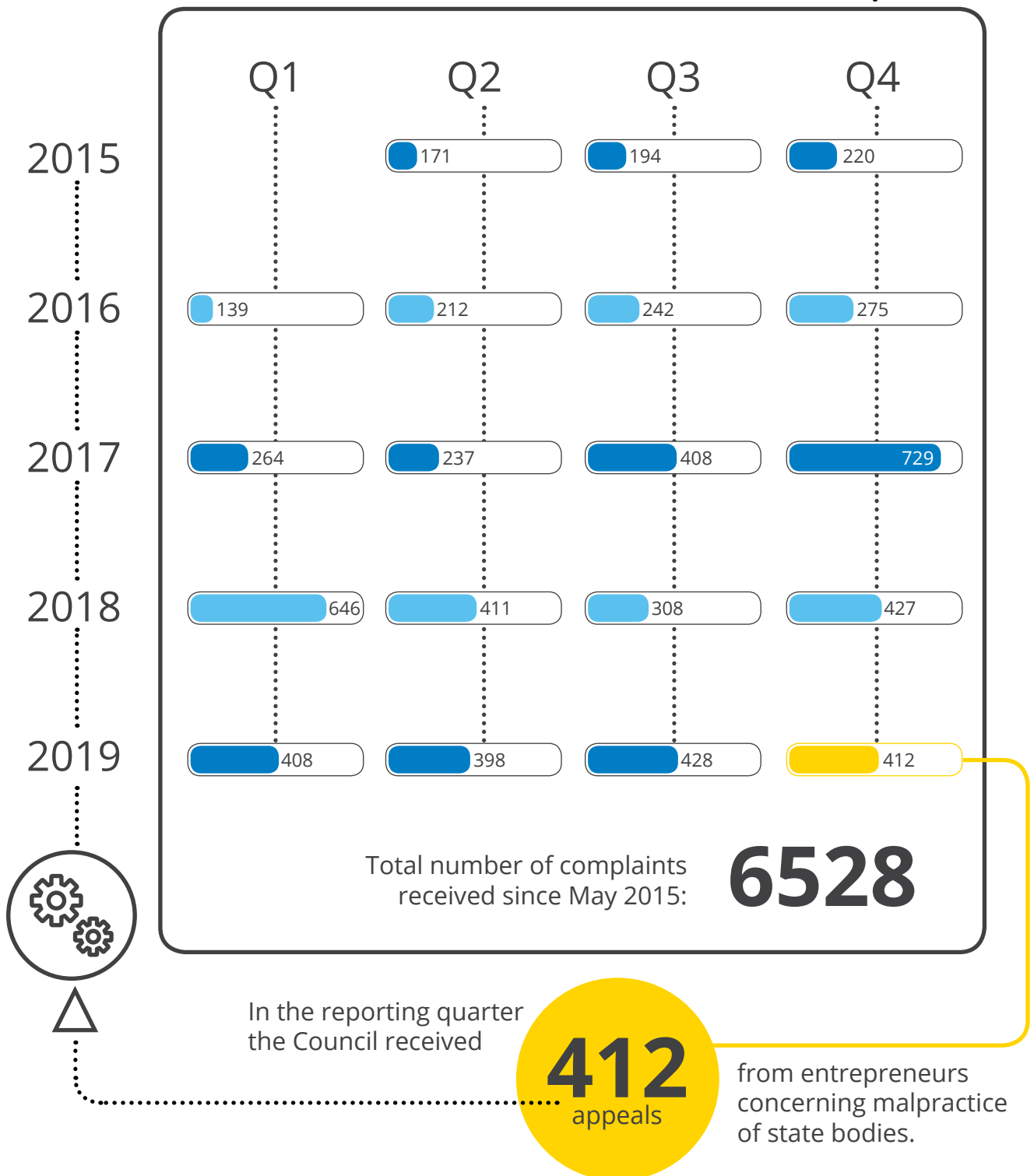


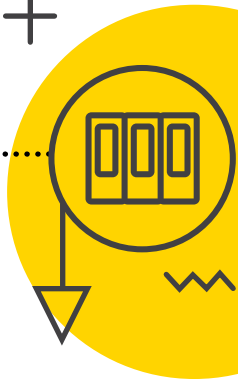


1. Complaints trends

1.1. Volume and nature of complaints received

(Clause 5.3.1 (a) of Rules of Procedure)





TOP-10

Subjects of complaints in Q4 2019



Subject	Complaints received in Q4 2019	Change as compared to Q3 2019	Change as compared to Q4 2018
Tax issues	254	-4%	-3%
VAT invoice suspension	95	8%	-9%
Tax inspections	89	-10%	13%
VAT electronic administration	17	0%	31%
Tax criminal cases	9	-40%	-47%
VAT refund	2	0%	-71%
Tax termination of agreement on recognition of electronic reporting	2	-33%	-50%
Tax termination/renewal/refusal of VAT payers registration	1	—	-67%
Tax other	39	-3%	8%
Actions of state regulators	36	24%	44%
Antimonopoly Committee (AMCU)	3	0%	200%
State Architectural and Construction Inspectorate (DABI)	3	-25%	-25%
StateGeoCadastre	2	-50%	-60%
National Energy and Utilities Regulatory Commission (NEURC)	1	0%	0%
Other state regulators	27	59%	93%
National Police actions	27	29%	-13%
National Police procedural abuse	13	63%	-35%
National Police inactivity	13	86%	63%
National Police criminal case initiated	0	-100%	-100%
National Police corruption allegations	0	-100%	—
National Police other	1	-50%	-50%
Prosecutor's Office actions	17	-11%	-19%
Prosecutor's Office procedural abuse	10	-29%	-44%
Prosecutor's Office inactivity	3	50%	—
Prosecutor's Office criminal case initiated	1	-50%	0%
Prosecutor's Office other	3	200%	50%

12 Complaints trends

Subject	Complaints received in Q4 2019	Change as compared to Q3 2019	Change as compared to Q4 2018
Ministry of Justice of Ukraine	14	-13%	0%
MinJustice Enforcement Service	7	133%	75%
MinJustice Registration Department	7	-46%	-30%
Actions of local government authorities	10	-23%	-23%
Local councils/municipalities land plots	3	200%	-25%
Local councils/municipalities rules and permits	0	-100%	—
Local councils/municipalities other	7	-22%	-22%
Customs issues	10	-63%	-29%
Customs valuation	4	-50%	0%
Customs clearance delay/refusal	1	-89%	-86%
Overpaid customs duties refund	1	-50%	0%
Customs other	4	-50%	100%
Permits and licenses	6	500%	100%
Permits and licenses — construction	0	—	-100%
Permits and licenses — environment/subsoil	6	500%	500%
State Security Service actions	5	67%	-17%
State Security Service criminal case initiated	2	—	—
State Security Service procedural abuse	0	—	-100%
State Security Service other	3	0%	-40%
Actions of state companies	4	0%	0%
State companies abuse of authority	1	-75%	—
State companies other	3	—	-25%



Tax issues.

In the reporting period the Council received 254 tax-related complaints from businesses, which is 4% and 3% less than in Q3 2019 and Q4 2018 respectively.

The number of appeals went down as compared to Q3 2019 mainly due to a decrease in a number of lodged complains concerning tax inspections (-10%), tax criminal cases (-40%) and terminated agreements on recognition of electronic reporting (-33%). The only subject which performed growth in comparison with the previous period was the suspension of tax invoices (+8%).

Customs issues.

In comparison with the previous quarter the number of complaints on customs issues went down due to a decline in all customs subjects: customs valuation (-50%), delays in customs clearance (-89%), refund of overpaid customs duties (-50%).



Actions of state regulators.

Complaints regarding malpractice of state regulators were on a rise in Q4 2019 as compared to both Q3 2019 and Q4 2018. Although companies submitted less appeals against the StateGeoCadastre and DABI, the number of complaints against other state regulators went up by a quarter as compared to Q3 2019 and almost by a half as compared to Q4 2018.



Actions of law enforcement bodies.

A trend of appeals concerning law enforcers varied depending on the state body. Businesses complained more about procedural abuse and inactivity of the National Police in comparison with Q3 2019. We also received more appeals concerning initiated criminal cases by the State Security Service: overall, the number of complaints went up by two thirds although in absolute figures it meant only +2 appeals. On the contrary, companies lodged less complaints concerning the Prosecutor's Office: as compared to Q3 2019 a decline was observed in the number of appeals regarding procedural abuses (-29%) and initiated criminal cases (-50%), while the appeals related to the inactivity of the Prosecutor's Office went up by 50%.

The Ministry of Justice actions.

In comparison with Q3 2019 the total number of appeals went down by 13%. This was driven by a decline in the number of complaints regarding actions of state registrars – almost half less than in Q3 2019. At the same time, the number of appeals concerning the Ministry of Justice Enforcement Service increased compared to both Q3 2019 (+133%) and Q4 2018 (+75%).

Actions of local government authorities.

We received a quarter less appeals against local government authorities as compared to both Q3 2019 and Q4 2018.

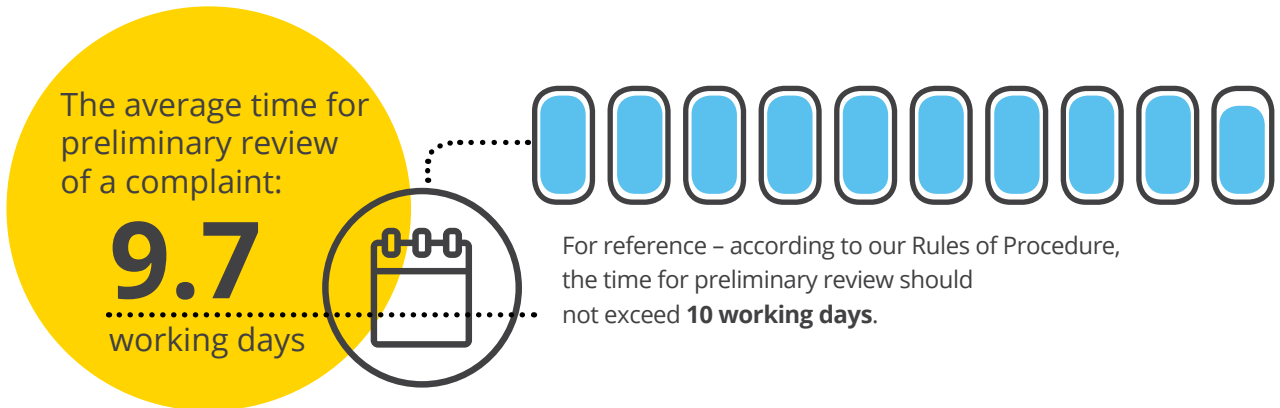


Other issues.

In the reporting period we received 6 complaints concerning submission of environment and subsoil permits, skyrocketing the percentage as compared to both Q3 2019 and Q4 2019 and influencing the whole block of appeals regarding permits and licensing. The number of complaints against state companies remained flat at the level of 4 appeals as compared to both Q3 2019 and Q4 2018.

1.2. Timelines of the preliminary review of complaints

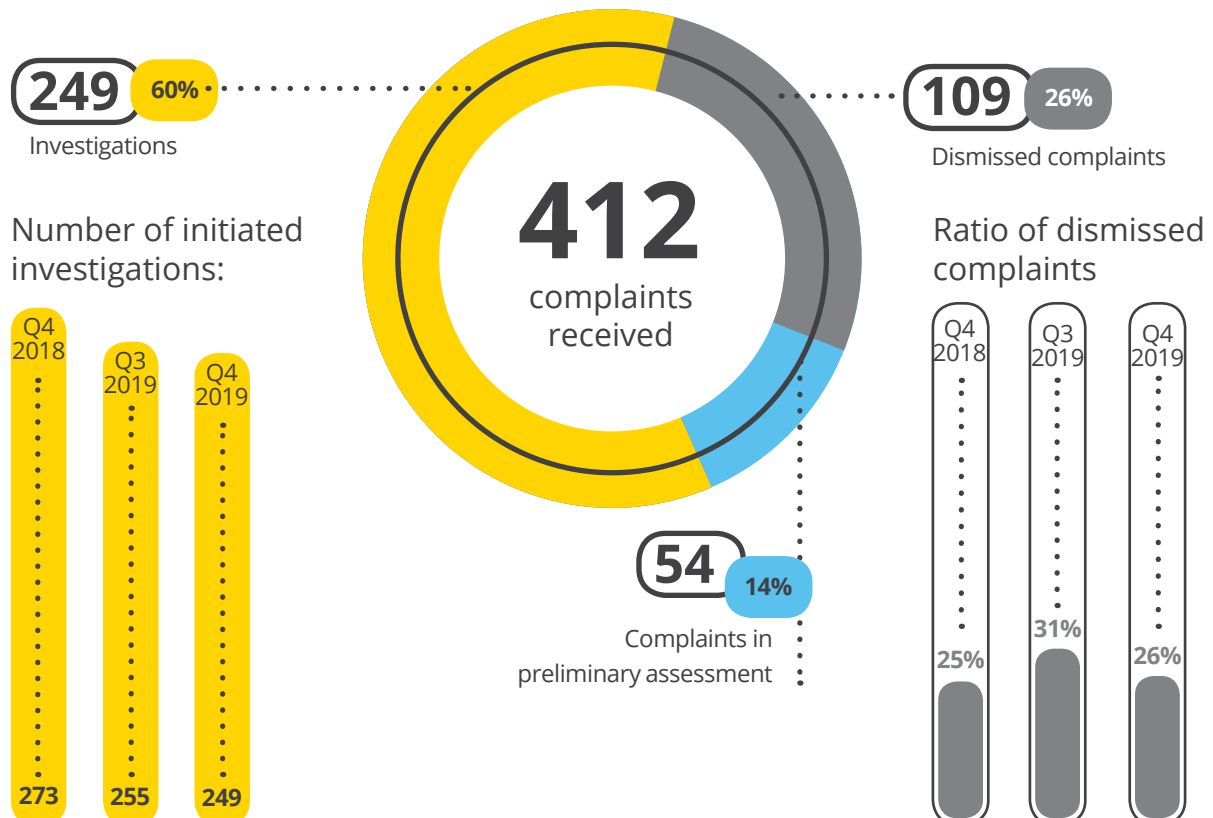
(Clause 5.3.1 (b) of Rules of Procedure)



1.3. Number of investigations conducted and grounds for declining complaints

(Clause 5.3.1 (c) of Rules of Procedure)

In Q4 2019, the BOC initiated 24 investigations out of 412 complaints received (60%). The rest remained at the stage of preliminary assessment (14%) or was dismissed as not fitting the Council's eligibility criteria (26%) as of December 31, 2019.



MAIN REASONS



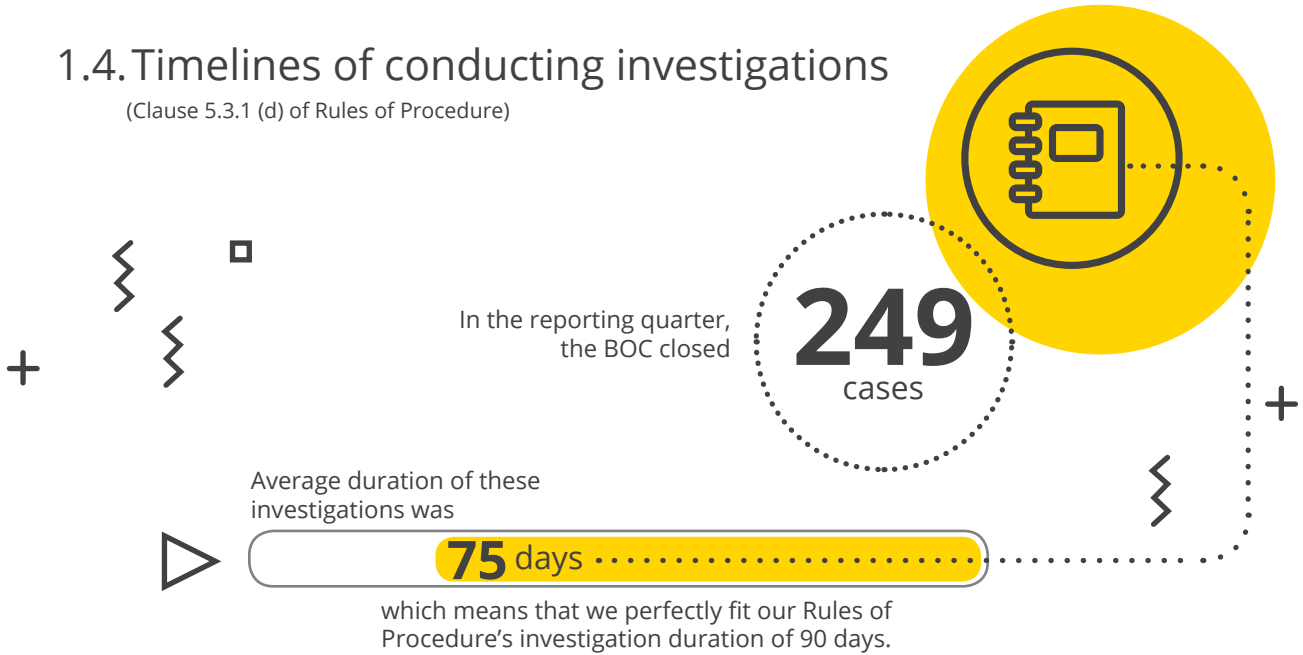
for complaints dismissal in Q4 2019

	Q4 2019	Change as compared to Q3 2019	Change as compared Q4 2018
Complaints outside Business Ombudsman's competence	57	0%	58%
Complaints subject to any court or arbitral proceedings, or in respect of which a court, arbitral or similar type of decision was made	17	-50%	-15%
In the opinion of the Business Ombudsman, the Complainant did not provide sufficient cooperation	10	11%	-29%
The complaint had no substance, or other agencies or institutions were already investigating such matter	6	-45%	-57%
Complaints in connection with the legality and/or validity of any court decisions, judgments and rulings	5	67%	67%
Complaint resolved before any BOC actions	4	100%	33%
Complaints arising in the context of private-to-private business relations	2	-33%	-50%
The party affected by the alleged Business Malpractice has not exhausted at least one instance of an administrative appeal process	2	-33%	-60%
A complaint filed repeatedly after being decided by the Business Ombudsman to be left without consideration	1	-50%	-75%
An investigation by the Business Ombudsman in a similar case is pending or otherwise on-going	1	-67%	—
Complaint relates to an issue that has already been addressed by the Business Ombudsman in his previous decisions	1	0%	0%
All other	3	-40%	200%

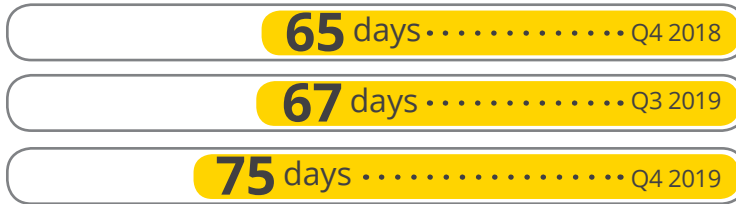
The predominant reason (52%) for complaints dismissal – they were outside the Business Ombudsman's competence. Active court proceedings (16%) and lack of cooperation from the complainant side (9%) were also common in Q4 2019.

1.4. Timelines of conducting investigations

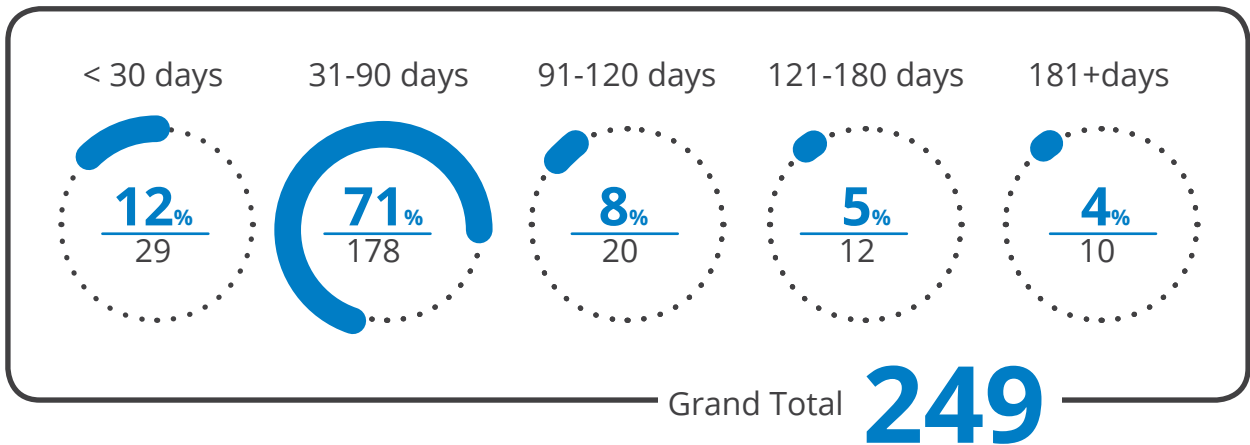
(Clause 5.3.1 (d) of Rules of Procedure)



Average time for conducting investigations:



Ratio of closed cases by days:



The majority of cases – 207, which is 83% of all closed investigations in Q4 2019, was investigated within 90 days, as standard envisaged by our Rules of Procedure. Individual extensions were applied to 17% of complaints.

1.5. Government agencies subject to the most complaints

TOP-10

Complainees	Complaints received in Q4 2019	Change as compared to Q3 2019	Change as compared to Q4 2018
State Tax Service, State Customs Service, State Fiscal Service	267	-8%	-4%
National Police of Ukraine	27	29%	-13%
Prosecutor's Office of Ukraine	17	-11%	-19%
Ministry of Justice	15	-6%	-6%
Ministry of Economic Development and Trade of Ukraine	11	120%	120%
Ministry of Energy and Environmental Protection of Ukraine	10	67%	150%
Local government authorities	10	-29%	-23%
Verkhovna Rada, Cabinet of Ministers of Ukraine, President of Ukraine	8	100%	0%
Ministry of Social Policy of Ukraine	6	50%	50%
Ministry for Communities and Territories Development of Ukraine	5	-29%	N/A

The ex-State Fiscal Service, which functions are currently performed by the State Tax Service, State Customs Service and State Fiscal Service (as regards the Tax Police), was the key complainee in Q4 2019. In two out of three cases submitted to the Council, the business issue related to this state body. Still, we observe a slight decline in the number of appeals regarding it: -8% as compared to Q3 2019 and -4% as compared to Q4 2018.

In comparison with the previous quarter companies lodged more complaints concerning actions of the National Police (+29%), but less regarding the Prosecutor's Office (-11%). The third law enforcement body, the State Security Service, didn't hit the TOP-10 complainees at all.

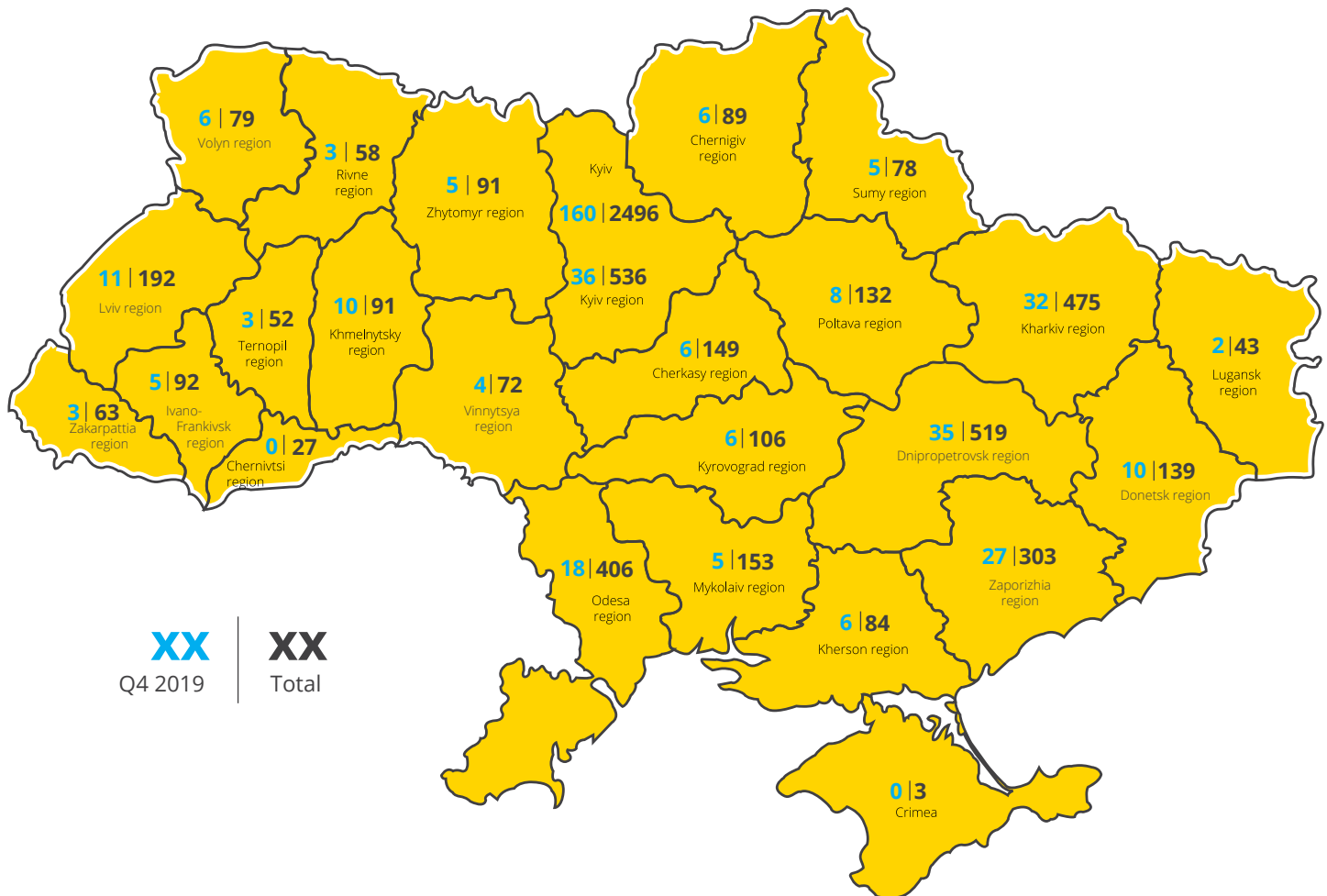
In Q4 2019, we observed an increase in the number of appeals with respect to the Ministry of Economic Development and Trade of Ukraine (+120%), which was expanded with the Ministry of Agro Policy, Ministry of Energy and Environmental Protection of Ukraine (+67%), which was created by merging the Ministry of Ecology and Natural Resources of Ukraine and the Ministry of Energy and Coal Mining of Ukraine, as well as the Ministry of Social Policy of Ukraine (+50%) (formerly the Ministry of Labor and Social Policy). The number of complaints concerning the following state bodies also went up: the Verkhovna Rada, Cabinet of Ministers of Ukraine, President of Ukraine (+100%). On the contrary, we received less complaints related to actions of the Ministry of Justice (-6%), local government authorities (-29%) and the Ministry for Communities and Territories Development of Ukraine (-29%), ex-Ministry of Regional Development, Construction, Housing and Communal Services of Ukraine.

Other complainees include:

	Complaints received in Q4 2019	Change as compared to Q3 2019	Change as compared to Q4 2018
State Security Service	5	67%	-17%
Ministry of Infrastructure of Ukraine	4	33%	—
State Enterprises	4	-20%	-20%
National Bureau of Investigation of Ukraine	4	0%	—
Ministry of Finance of Ukraine	3	0%	-40%
Communal Services of Ukraine	3	200%	—
Antimonopoly Committee of Ukraine	3	0%	50%
State Emergency Service of Ukraine	2	100%	—
NABU	2	0%	-50%
Commercial and other courts	1	-75%	-67%
Ministry of Health of Ukraine	1	0%	0%
State Funds	1	0%	-50%
National Commission for State Regulation of Energy and Public Utilities	1	0%	0%
Other	2	-67%	-67%



1.6. Geographical distribution of complaints received



XX | XX
Q4 2019 | Total

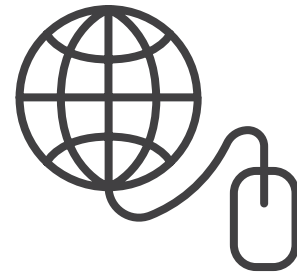
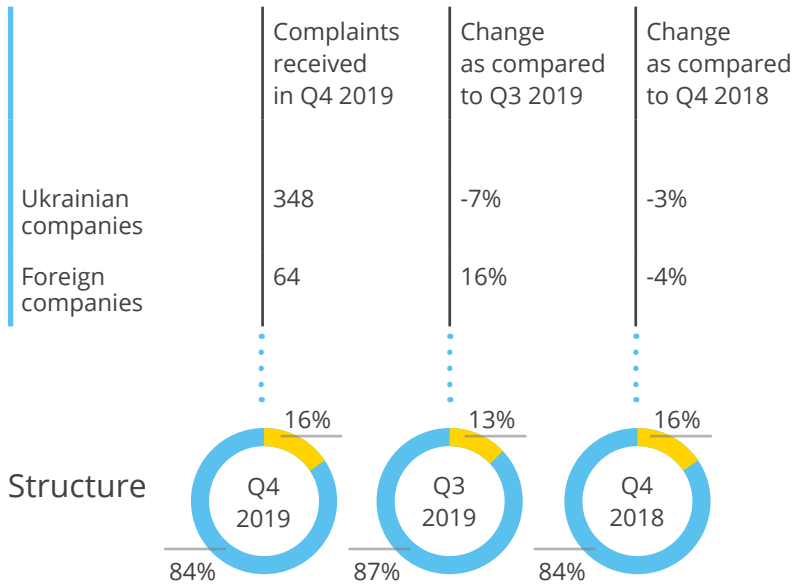
In comparison with Q3 2019 we observe a decline in the number of complaints lodged by companies registered in the city of Kyiv (-11%) and Kharkiv Oblast (-16%). At the same time the Council received more appeals from Kyiv Oblast (+13%), Dnipro Oblast (+35%) and Zaporizhzhia Oblast (+35%). This is how the latter region hit the TOP-5 replacing Odesa (with only 18 appeals) from the list.

	Complaints received in Q4 2019	Change as compared to Q3 2019	Change as compared to Q4 2018
Kyiv	160	-11%	-12%
Kyiv region	36	13%	13%
Dnipro region	35	35%	3%
Kharkiv region	32	-16%	-27%
Zaporizhzhia region	27	35%	8%

1.7. Complainants' portrait

Local vs Foreign Complainants

Number of complaints

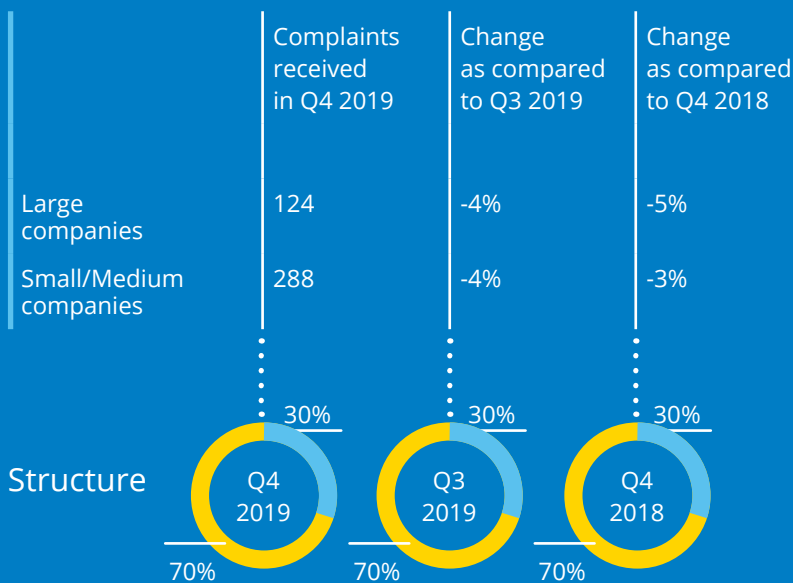


Only every sixth complaint concerning state bodies malpractice came from a company with foreign investments.

■ Ukrainian companies
■ Foreign companies

Size of Businesses

Number of complaints


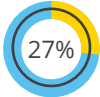







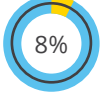


The structure of appeals remained stable since the previous quarter: 70% of appeals were submitted by small and medium companies and 30% – by large ones.

■ Large companies
■ Small/Medium companies

TOP-5

Complainants Industries

		Complaints received in Q4 2019	Change as compared to Q3 2019	Change as compared to Q4 2018	
	Wholesale and Distribution	112	-6%	-15%	
	Manufacturing	66	6%	40%	
	Individual Entrepreneurs	42	5%	50%	
	Real Estate and Construction	40	14%	-18%	
	Agriculture and Mining	32	-11%	-3%	
	All other	120	-12%	-14%	

The majority of appeals was submitted by wholesalers (27%), manufacturers (16%), individual entrepreneurs (10%), representatives of real estate and construction (10%) and agribusiness and mining (8%). As compared to Q3 2019, the number of appeals from wholesalers and agribusiness went down, while from manufacturers, developers and private businessmen, on the contrary, went up.

Complaints from individual entrepreneurs hit the third position in the top-list for the second quarter in a row, which apparently means that this category of applicants has become more aware of the Council's activities.

Other industries include:

Retail	27
Physical person	11
Auto transport	9
Repair and Maintenance Services	6
Supply of electricity, gas, hot water, steam and air conditioning	5
Processing industry	4
Engineering, geology and geodesy areas activity	4
Transportation and Storage	3
Energy and Utilities	3
Farming	3
Oil and Gas	3
Consulting	3
Hire, rental and leasing	3
Maintenance of buildings and territories	3
Health, Pharmaceuticals, and Biotech	3
Advertising	2
Computer and Electronics	2
Waste collection and disposal	2
Printing and reproduction activity	2
Freight maritime transport	2
Warehousing	2
Activities in the field of culture and sports, recreation and entertainment	2
Financial Services	2
Electric installation works	2
Information and Telecommunications	2
Education	1
Technical testing and research	1
Restaurant business	1
Investment companies	1
Forestry and logging	1
Public Organizations	1
Delivery services	1
Other	3



1.8. Report focus: SMEs vs large companies

Since launch of operations the Council has received

6528

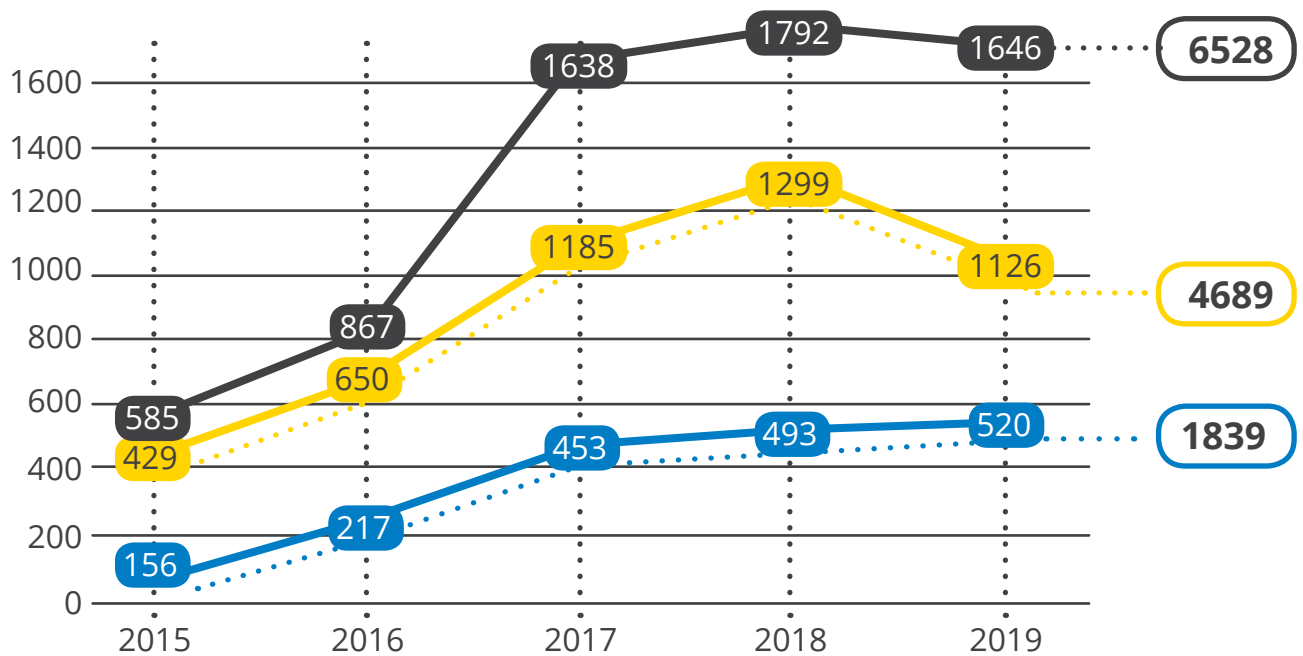
complaints from businesses



72%

of which came from small and medium-sized enterprises (SMEs).

Number of complaints received, 2015-2019



■ — SMEs

■ — Large companies

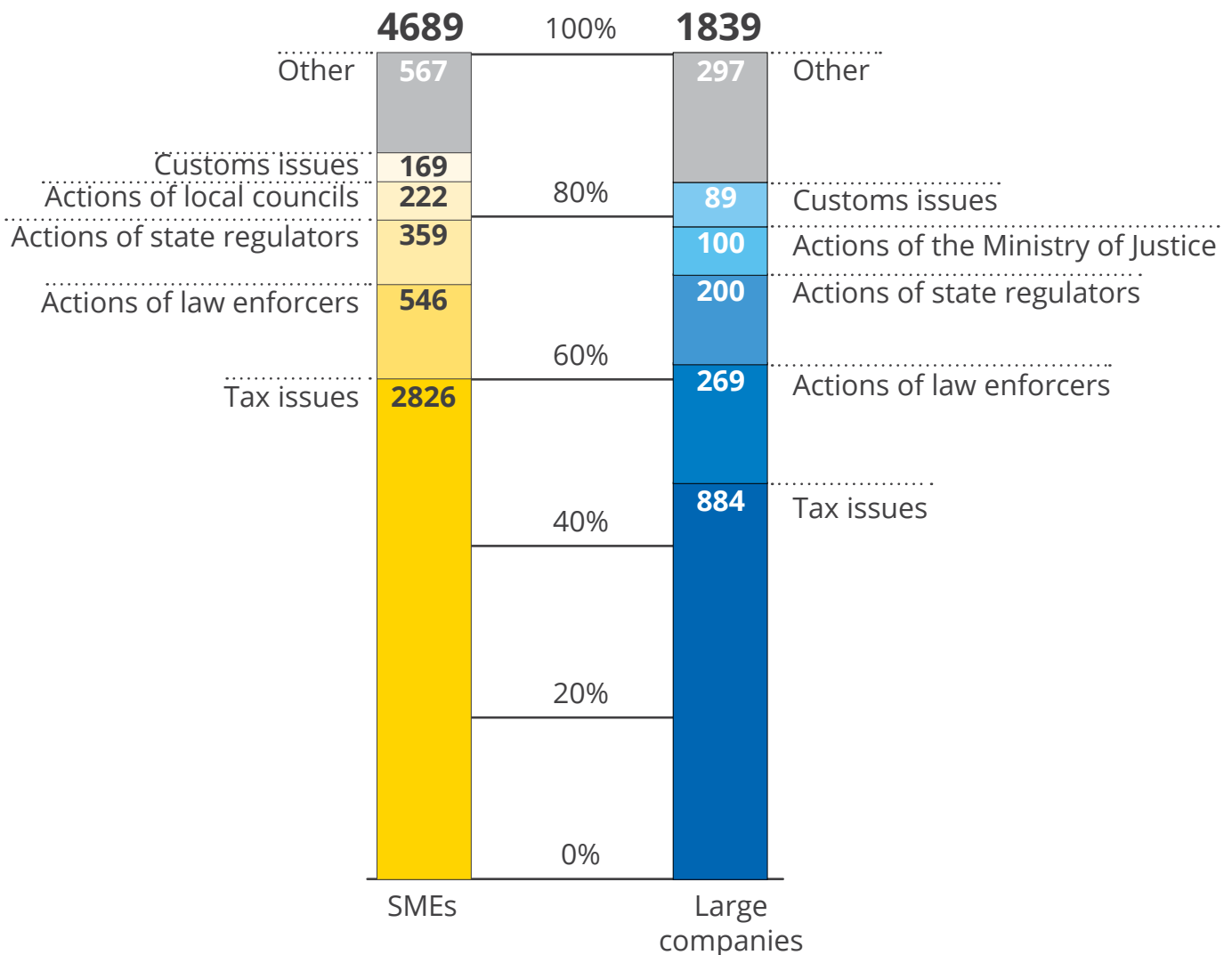
■ — All complaints

Analyzing statistics of 2015-2019, we observe a sharp increase of appeals in 2017, when the number of complaints from businesses almost doubled as compared to the previous year. This growth was mainly driven by a new matter of appeals – suspension of tax invoices – which we started to receive in Q3 2017 immediately upon the launch of automatic system of tax invoices registration. The number of such matters peaked in 2018 and remained uncommonly high for several quarters in a row. Starting from Q2 2018, when considerable improvements into the system operations were introduced, the number of appeals on tax invoice suspension went down.

When comparing 2019 with 2018, we note a 13% decline in the number of appeals submitted by SMEs. Since the key matter of SMEs appeals to the Council is the suspension of tax invoices, this primarily shows normalization of the automatic system's functions. On the contrary, large companies lodged 5% more complaints concerning malpractice of public authorities as compared to 2018.

TOP-5

blocks of complaints received:
SMEs vs large companies

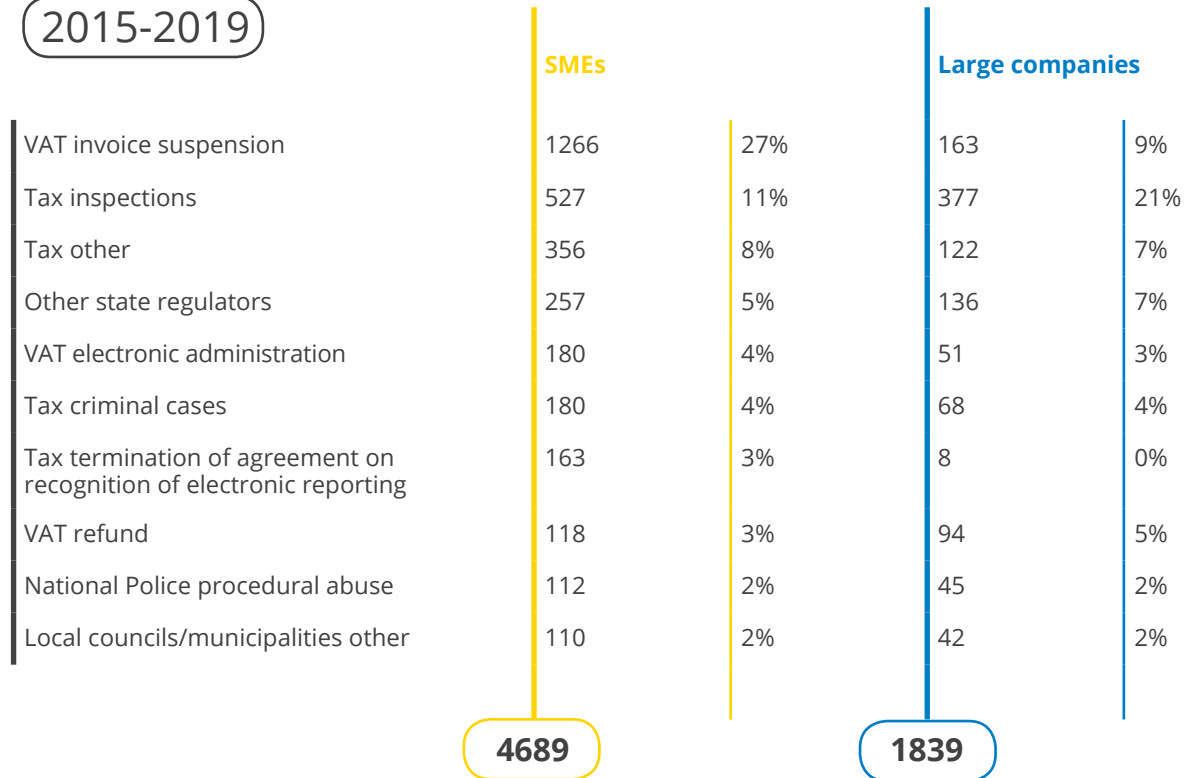


It seems like notwithstanding the size of the business, companies in Ukraine face similar problems when dealing with state bodies: tax issues, actions of law enforcers and state regulators are among the most common matters. However, the share of tax related appeals within SMEs is 12 pp higher than that of large companies: 60% vs 48%. At the same time, large businesses seem to be of greater attention of law enforcement bodies as well as of state regulators: +3pp higher share of both blocks in large company's portfolio of appeals. At the same time actions of local government authorities which ranked 4th with respect to SMEs appeals, didn't hit the TOP-5 of large businesses at all. The fourth position by the number of complaints is different in both groups: among SMEs these are actions of local government authorities, while among big ones — actions of the Ministry of Justice. Customs issues turned to be the #5 most common matter of appeals for both groups with 4% and 5% respectively.

Subjects of complaints received: SMEs vs large companies

TOP 10

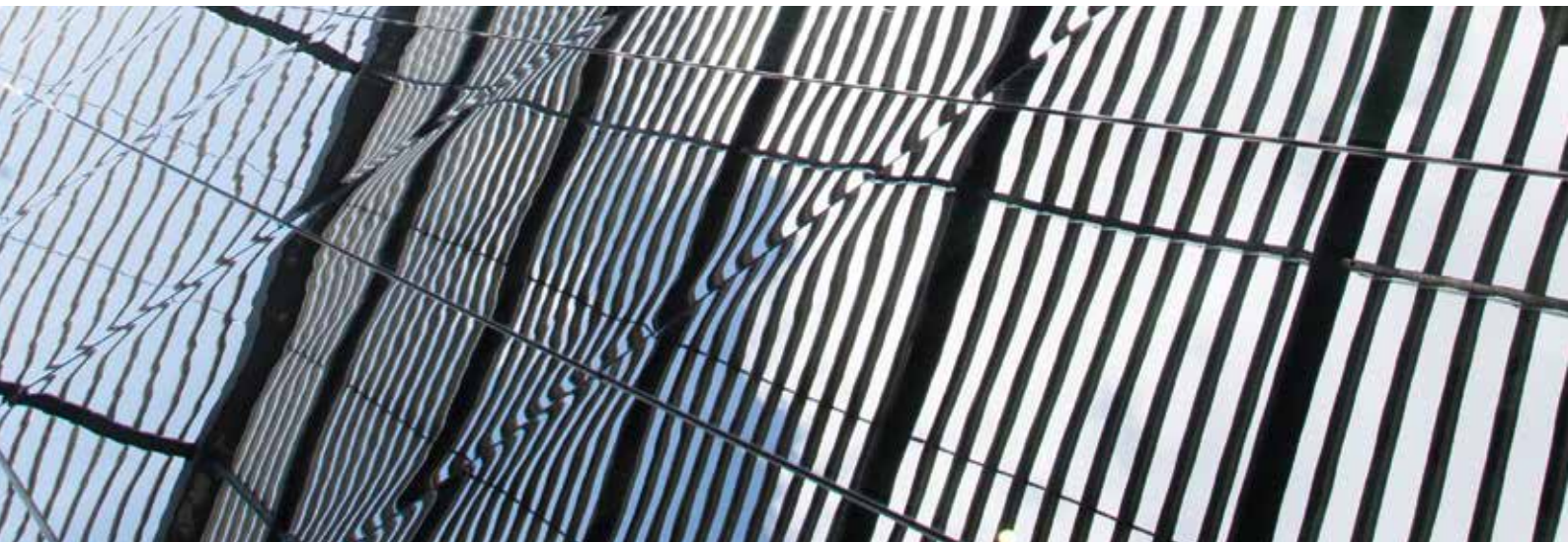
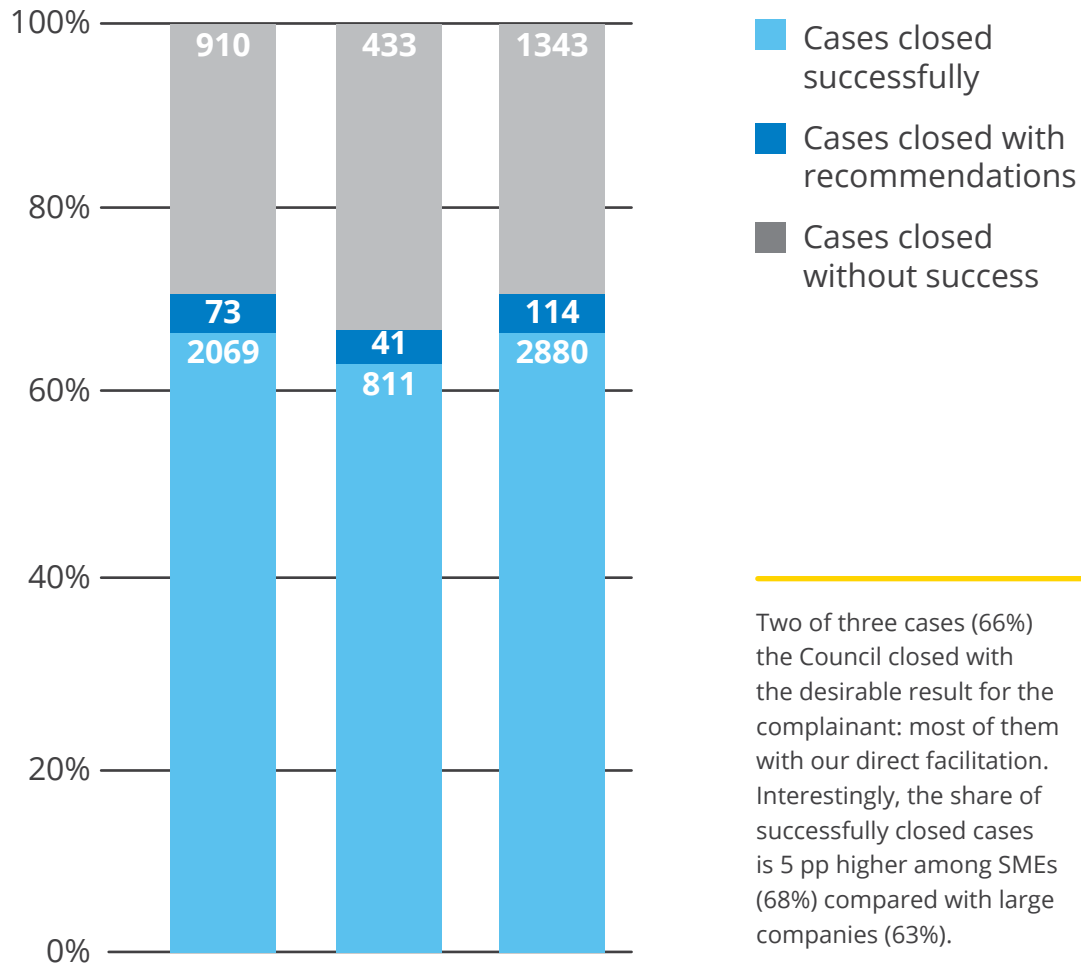
2015-2019



Seven out of ten most common appeals were tax-related. The most widespread matter (27% of total complaints) of SMEs addressing the Council concerned suspension of tax invoices. Tax inspections ranked second with 11% share. Actions of state regulators, excluding StateGeoCadastre, DABI, AMCU and NEURC amounted to 5% share.

At the same time the most painful issue of large companies were tax inspections – 21% of total appeals. Suspension of tax invoices amounted to 9%, which is much less than the respective figure of SMEs due to specifics of the automatic system operations.

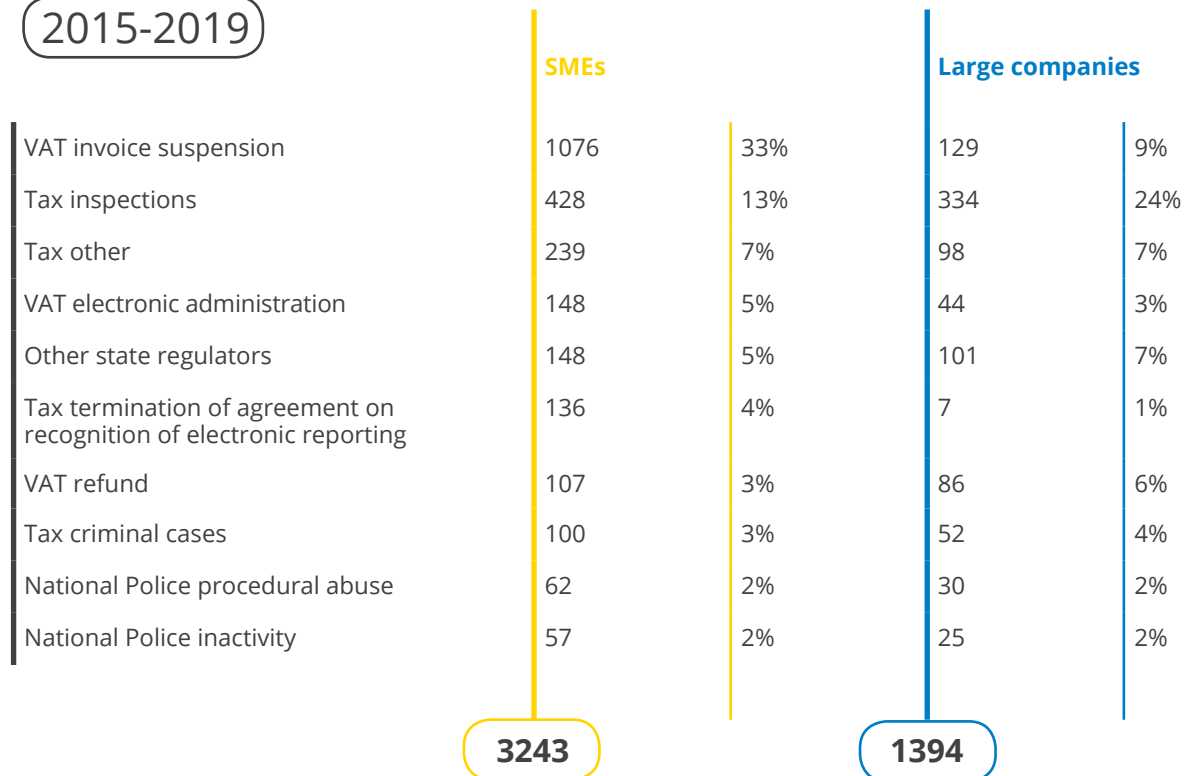
Statuses of closed cases: SMEs vs large companies



Subjects of closed cases: SMEs vs large companies

TOP-10

2015-2019



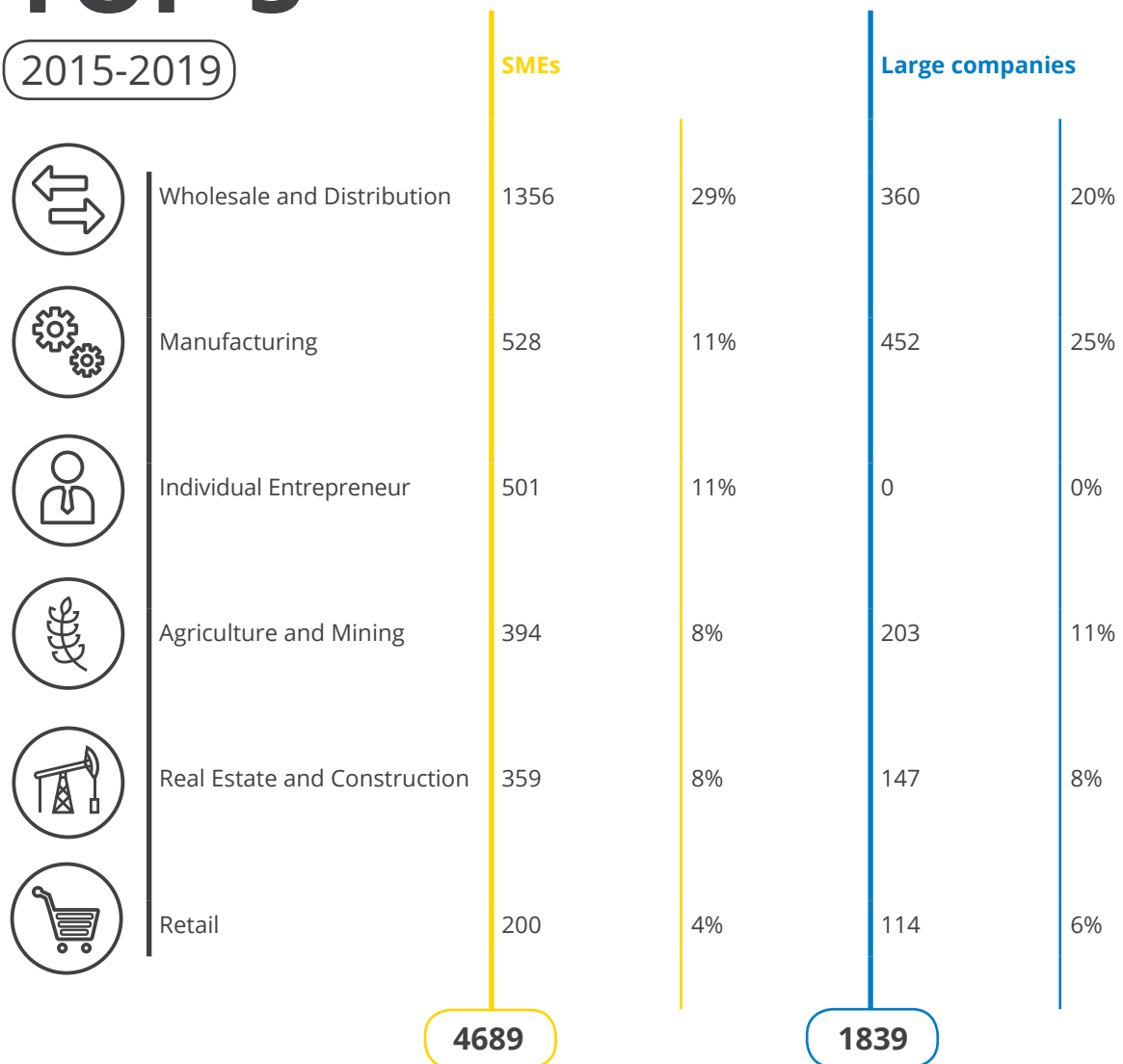
Every third closed case of SMEs concerned suspension of tax invoices. At the same time large companies, by definition, are less likely to be on the high-risk list, that's why the share of such matters was much less – only 9%.

Tax inspections, which were the subject of every fourth finalized investigation of a big company, pertained to a much lower share (13%) of SMEs. Cases regarding procedural abuses (2%) and inactivity (2%) of the National Police were also among the most common concerns of both groups.

Complaints received by industries: SMEs vs large companies

TOP-5

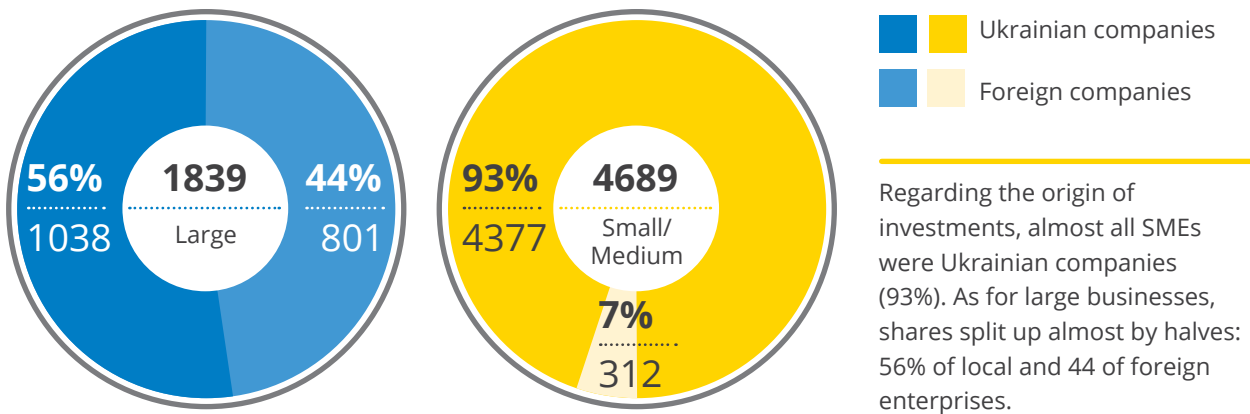
2015-2019



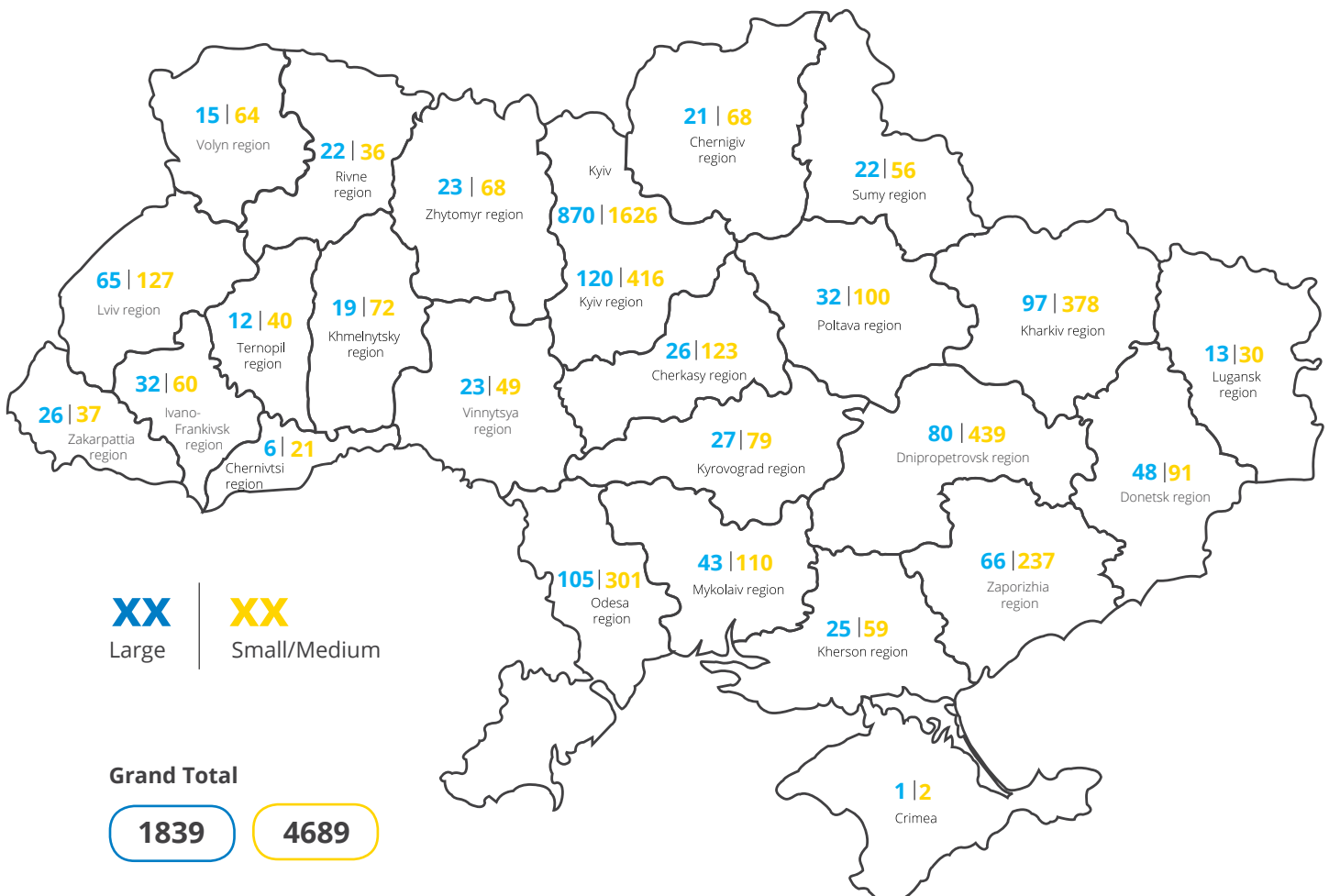
With respect to our complainants, SMEs were mainly presented by wholesalers and distributors (29%), manufacturers (11%), individual entrepreneurs (11%), developers (9%) as well as agriculture and mining spheres (8%).

Every fourth complaint from big companies pertained to manufacturing sphere. The share of wholesalers was 9pp lower among big companies, meanwhile the one of agribusiness – 3 pp higher.

Complaints received by the origin of investments: SMEs vs large companies



Geography of received complaints: SMEs vs large companies



1.9. Feedback



96%

of them said they were satisfied with working with us.



Companies assessed 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 indicated what they are satisfied the most in dealing with us and specified areas that require improvement.



The key to effective work of the Business Ombudsman Council is its team's professionalism, objectivity, impartiality, deep expertise and high standards of work. We also express our high hopes for further work of the BOC in Ukraine."

Representative of
VENECHI HOLDING LIMITED,

Olga Gonchar

General Director of
Institute of Oil Transport,
PJSC,

Oleksandr Kosyak



The existence of the Business Ombudsman Council in Ukraine greatly contributes to improving conditions for conducting business activities, preventing corruption and violation of other legitimate interests of business entities."

Acting Head Kupyansk
MCF, PJSC

Nataliia Florynska



The Council confirms with its qualified actions one of its main strategies – effective representation and protection of business interests in state bodies."

General Director of
Mykolaiv Alumina Plant,
LLC

Victor Kozhevnikov



Thank you for your efforts and beliefs, concerning honesty and transparency of the business that led to a fair result. We wish development and prosperity to the Business Ombudsman Council in Ukraine."

CEO of Veres, LLC

Volodymyr Zubkov

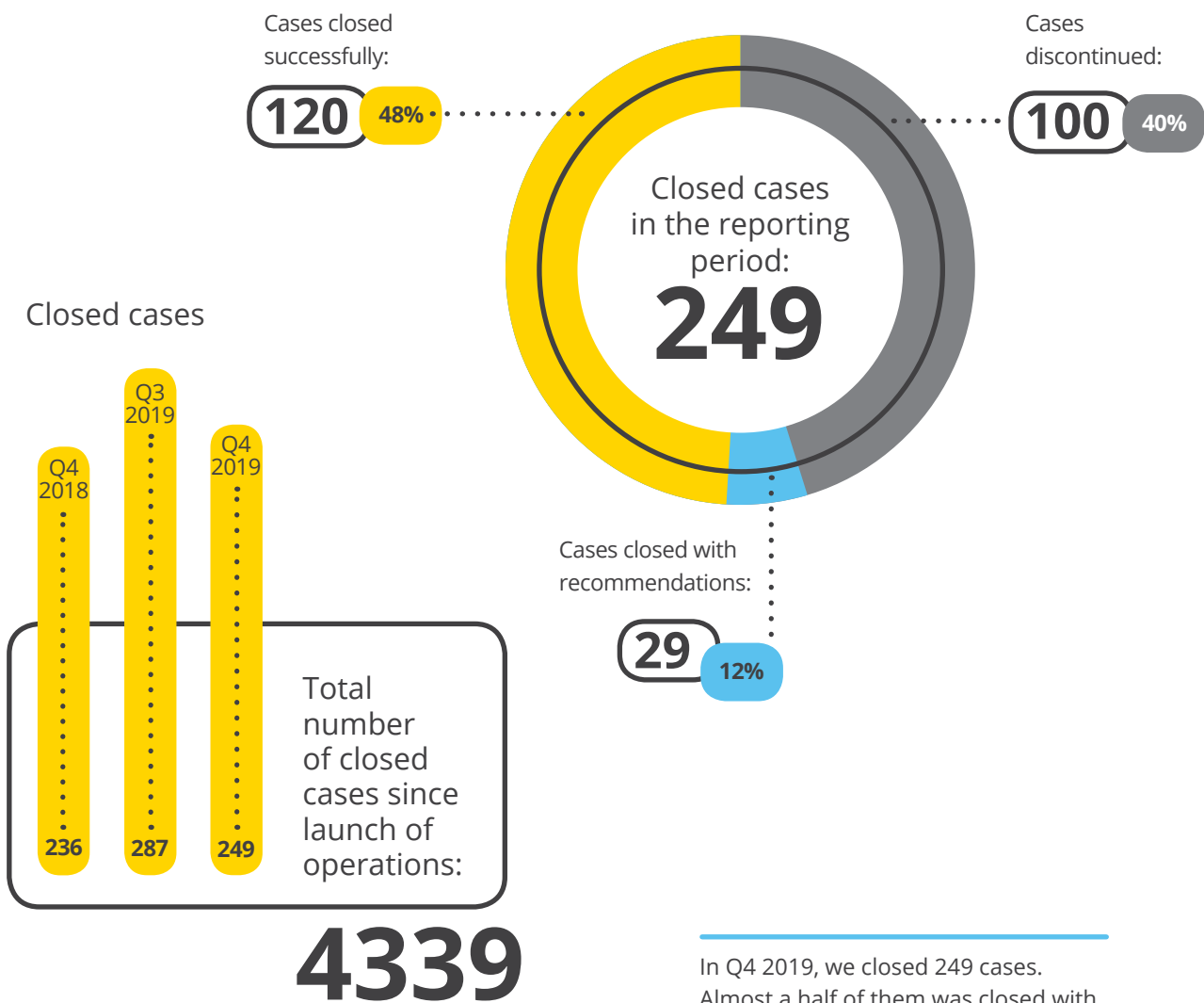


We want to confirm that the Business Ombudsman Council proved to be a reliable partner being able to quickly analyze the situation and find legal ways of responding to the tax authority's inaction and malpractice that helped protect the client's legal rights. We would like to acknowledge a high level of professionalism, a thorough understanding of tax law, self-discipline and punctuality throughout our cooperation. "

CEO of Expert Consulting Company, **Aleksandr Kyrshun**

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

2.1. Information on closed cases and recommendations provided



In Q4 2019, we closed 249 cases. Almost a half of them was closed with an immediate desirable result for complainants.



TOP-10

Subjects of closed cases in Q4 2019:

Subject	Q4 2019	Change as compared to Q3 2019	Change as compared to Q4 2018
Tax issues	177	-10%	20%
Customs issues	19	46%	90%
Actions of State Regulators	17	-19%	0%
Ministry of Justice actions	10	43%	0%
National Police actions	9	-40%	-50%
Actions of Local Councils/Municipalities	4	-43%	-50%
Prosecutor's Office actions	2	-86%	-80%
Actions of state companies	2	-60%	-33%
Permits and licenses	1	0%	—
Legislation drafts/amendments	1	—	-67%

Over two thirds (71%) of all closed cases were tax related, while customs were in the focus of 8% of closed investigations. Cases concerning actions of state regulators hit the third position with 7%. Only 4% of closed investigations were about actions of law enforcers – the National Police and the Prosecutor's Office.

Financial impact in Q4 2019:

UAH **347** mn

Three fourths of the financial impact in Q4 2019, which is UAH 267 mn, came to businesses from the cancellation of ungrounded tax audit results. Other UAH 70 mn were refunded to companies through registration of tax invoices and various solved tax related issues.

Financial Impact

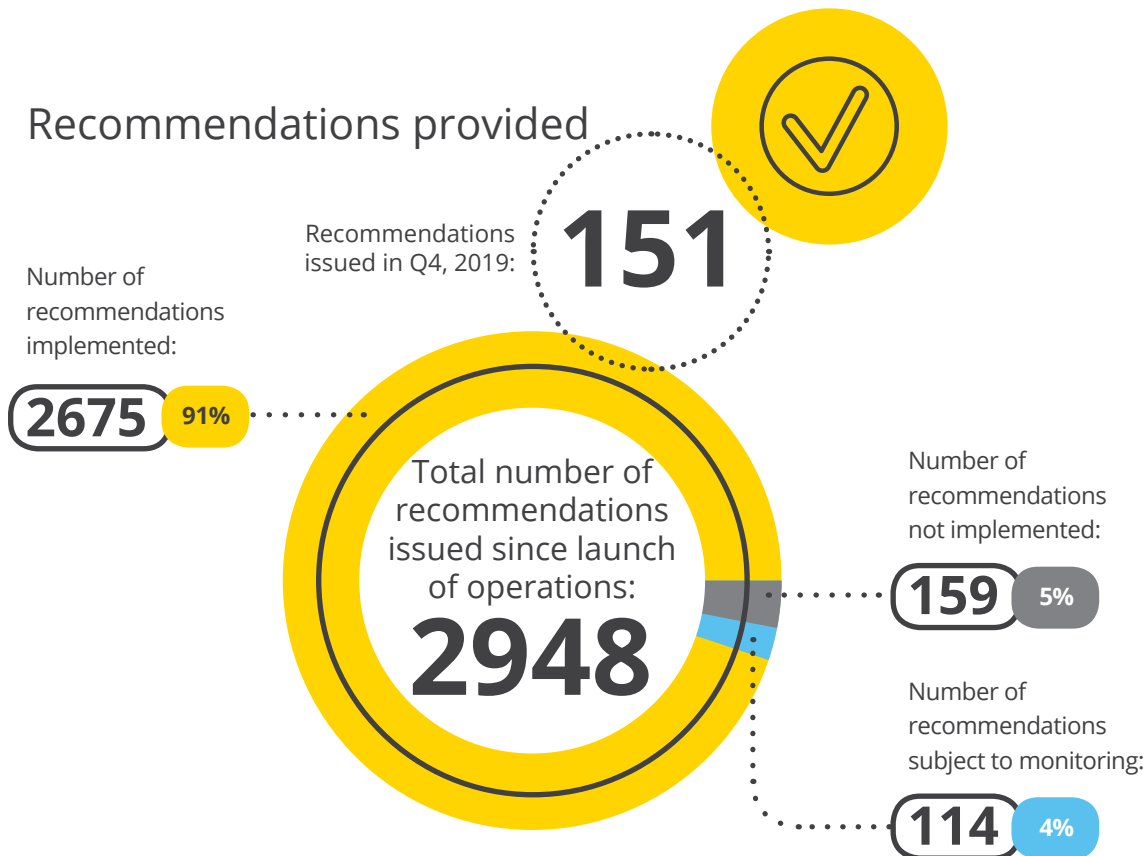
Tax inspections	266,737,298
Tax VAT invoice suspension	32,227,702
Tax VAT electronic administration	26,093,700
Tax other	11,813,237
State companies other	4,897,410
Other state regulators	2,447,278
Tax VAT refund	1,841,980
Overpaid customs duties refund	241,560
Customs other	227,898
MinJustice Enforcement Service	16,109

Direct financial impact of BOC's operations
May 20, 2015 – December 31, 2019:amounts to UAH **17,9** bn**Non-financial impact of BOC's operations in Q4 2019:**

	Q4 2019	Q3 2019	Q4 2018
Malpractice ceased by complainee	40	-35%	54%
Tax records reconciled, tax reporting accepted	7	133%	133%
Criminal case against the Complainant closed; property/accounts released from under arrest	3	-67%	-63%
Permit/license/conclusion/registration obtained	3	0%	-50%
Legislation amended/enacted; procedure improved	2	100%	-60%
Contract with state body signed/executed	1	-50%	—
State official fired/penalized	2	—	-33%
Claims and penalties against the Complainant revoked Sanction lifted	1	0%	—
Criminal case initiated against state official/3rd party	1	-75%	-50%

In Q4 2019 we ceased dozens of episodes of state bodies malpractice, facilitated our applicants in submission of tax reporting and in obtaining licenses and permits.

Recommendations provided



Government agencies whom the BOC issued recommendations in 2015-2019 (case-by-case basis) and ratio of implementation

	Issued recommendations	Implemented recommendations	Cumulative implementation rate since May 2015 to a respective period		
			Q4 2019	Q3 2019	Q4 2018
State Fiscal Service	2010	1875	93%	93%	93%
National Police of Ukraine	151	123	81%	81%	79%
Prosecutor's Office of Ukraine	131	107	82%	79%	74%
Ministry of Justice	104	96	92%	93%	88%
Local government authorities	118	87	74%	74%	74%
Ministry for Development of Economy, Trade and Agriculture of Ukraine	65	55	85%	82%	79%
Ministry for Communities and Territories Development of Ukraine	56	55	98%	98%	95%
State Security Service	54	53	98%	98%	94%

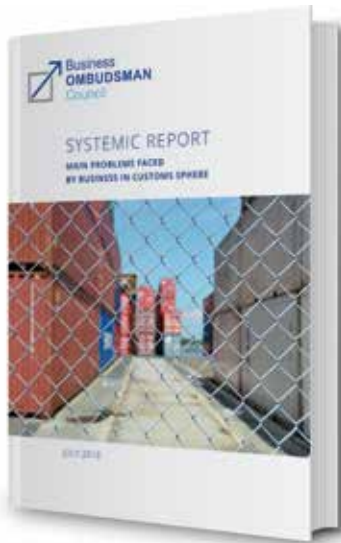
	Issued recommendations	Implemented recommendations	Cumulative implementation rate since May 2015 to a respective period		
			Q4 2019	Q3 2019	Q4 2018
Ministry of Energy and Environmental Protection of Ukraine	50	46	92%	96%	93%
Ministry of Social Policy and Labour of Ukraine	27	25	93%	92%	89%
Parliament, the Cabinet of Ministers, the President of Ukraine	30	27	90%	90%	73%
State Enterprises	29	25	86%	86%	79%
Ministry of Finance of Ukraine	22	19	86%	90%	93%
Ministry of Infrastructure of Ukraine	17	13	76%	71%	82%
Ministry of Health of Ukraine	13	12	92%	92%	100%
Ministry of Internal Affairs	14	11	79%	81%	87%
National Commission for State Regulation of Energy and Public Utilities	11	10	91%	91%	88%
Commercial and other courts	7	7	100%	100%	100%
Antimonopoly Committee of Ukraine	10	7	70%	70%	75%
NABU	4	4	100%	100%	100%
State Funds	5	2	40%	40%	40%
National Bank of Ukraine	5	2	40%	40%	40%
State Emergency Service of Ukraine	1	1	100%	100%	100%
Ministry of Education and Science of Ukraine	1	1	100%	100%	100%
National Council of Ukraine on Television and Radio Broadcasting	1	1	100%	100%	100%
Communal Services of Ukraine	1	1	100%	100%	100%
Other	11	10	91%	91%	90%
Grand Total	2948	2675	91%	91%	90%

In total, state bodies have implemented 91% of case-by-case recommendations, issued by the Council. The majority of public authorities, whom we issued 30+ recommendations performed above average. Exceptions were: the National Police (81%), the Prosecutor's Office (82%), local government authorities (74%), the Ministry for Development of Economy, Trade and Agriculture (85%) and Parliament, the Cabinet of Ministers, the President (90%).

In Q4 2019, the following state bodies improved their performance as compared to the previous quarter: the Prosecutor's Office (+3pp), Ministry for Development of Economy, Trade and Agriculture of Ukraine (+3pp) and the Ministry of Social Policy and Labor (+1 pp). At the same time the Ministry of Justice (-1pp) and the Ministry of Energy and Environmental Protection (-4pp) worsened their positions. The rest of state bodies from the TOP-11 list remained flat in comparison with Q3 2019.

2.2. Systemic issues identified and solved

MAIN PROBLEMS FACED BY BUSINESSES IN CUSTOMS SPHERE



Issue/Task

Implementing measures aimed at ensuring due protection of intellectual property rights (IPR) while transferring goods across customs border is a part of Ukraine's international commitments.

At the time of preparation of the Systemic Report, these measures were implemented in the Ukrainian legislation only partially.

Hence, business kept arguing that customs authorities were quite reluctant to exercise measures to combat IPR infringements.

Therefore, it appeared necessary to continue adapting the Ukrainian customs legislation to *acquis communautaire* (unified legislation of the European Union) in part of IPR protection.

BOC's recommendation

To prepare amendments to the Draft Law of Ukraine No.4614 dated 06.05.2016 "On Introducing Amendments to the Customs Code of Ukraine to Ensure Protection of Intellectual Property Rights While Moving Goods Across Customs Border of Ukraine" No.4614 dated 06.05.2016; or to introduce an alternative draft law to ensure implementation in Ukraine of the requirements set forth in (i) Regulation (EC) No 608/2013 of the European Parliament and of the Council regarding customs enforcement of intellectual property rights; as well as (ii) Commission Implementing Regulation (EU) No. 1352/2013 establishing the forms provided for in Regulation (EU) No 608/2013.

Actions taken by government agencies

The recommendation was largely implemented due to adoption of the Law of Ukraine No. 202-IX of 17.10.2019 "On Introducing Amendments to the Customs Code of Ukraine to Ensure Protection of Intellectual Property Rights While Moving Goods Across Customs Border of Ukraine", which entered into force on November 14, 2019.

COMBATTING RAIDERSHIP: CURRENT STATE AND RECOMMENDATIONS



Issue/Task

The extraterritoriality principle – originally introduced into Ukrainian legislation back in 2015 – has unfortunately become one of the legislative conditions that actually facilitated raidership attacks against real estate and corporate rights. This principle foresaw the possibility of conducting state registration throughout the territory of Ukraine regardless of the actual location of the object in whose respect the registration action is being made.

In 2016, in order to minimize abuses related to illicit acquisition of various, – the principle of extraterritoriality was restricted.

At the same time, rare cases of registrations conducted outside the territory determined for a registration action to be carried out pursuant to the law remains to be seen in practice.

BOC's recommendation

To prevent carrying out registration actions in violation of territoriality principle.

Actions taken by government agencies

On November 02, 2019 the Law of Ukraine "On Introducing Amendments to Certain Legislative Acts of Ukraine Aimed at Protecting Property Rights" No 159-IX dated 03.10.2019 (the "Anti-Raidership Law 2") entered into force.

The Anti-Raidership Law 2 effectively reinstated territoriality as one of the principles of state registration of rights, namely:

- 1) the state registration of property rights and other real rights is carried out at the location of immovable property (Paragraph 1 Part 5 of Article 3 of Law No 1952-IV).
- 2) on the basis of the decision of the Ministry of Justice, the state registration of property and other real rights in certain cases can be carried out within several administrative-territorial units or regardless of the location of real estate (Paragraph 2 Part 5 of Article 3 of Law No 1952-IV).
- 3) the state registration of legal entities on the basis of the documents filed in hard copy (paper form) shall be carried out at the location of the respective legal entity (Paragraph 1 Part 2 of Article 4 of Law No 755-IV).

SYSTEMIC REPORT “PROBLEMS WITH CROSS-BORDER TRADING IN UKRAINE”



Issue/Task

The main reason requiring changes in legislation is a large number of opaque procedures, which causes corruption schemes in operations with scrap metal.

BOC's recommendation

Amend the Law “On the Scrap Metal,” which regulates export and import, to streamline procedures and improve the economic and legal provisions related to scrap metal operations.

Actions taken by government agencies

In progress

The Draft Law of Ukraine “On Amendments to Certain Legislative Acts (concerning unshadowing metallurgical raw materials market and scrap metal operations)” (registration No.2426 of November 12,2019)

The draft law improves regulation of the scrap metal market players activities by:

- simplifying a scrap metal operations procedure;
- reducing unreasonable requirements for business entities performing scrap metal operations, as well as requirements for documenting scrap metal operations;
- abolishing the outdated system of scrap metal separation into household and industrial and related restrictions, thereby eliminating the possibility for corruption abuse by law enforcement agencies through their making unsubstantiated claims against legal scrap yards;
- clarifying state bodies competence in the field of scrap metal operations;
- taking scrap metal operations out of double state control;
- simplifying documenting scrap metal operations with the participation of individuals, procedure and payment for scrap purchased from the population by lifting the ban on cash payments;
- eliminating duplication of government functions in the field of scrap metal operations, cancelling the right of local state administrations to draw up an inspection certificate of specialized enterprises;
- simplifying technical and regulatory requirements for scrap metal suppliers, which only procure (purchase) it without actual processing.

2.3. Review of the systemic report "Big Challenges for Small Businesses"

In the reporting quarter, the Council worked on its 15th systemic report "Evaluation of the State SME Development Strategy Implementation in Ukraine for the Period Up to 2020 and Conclusions for the Future" that will be published and presented to the public in February 2020.

Micro-, small and medium-sized enterprises (SMEs) in Ukraine have always existed under complicated social and economic conditions. In Ukraine, SMEs are an important source of employment and comprise a lion's share of the total number of enterprises in Ukraine in 2018: the number of medium-sized enterprises accounts for 16.5k, small – 182.3k and micro – 176.5k companies¹ (including nearly 296,000 of private entrepreneurs having over 70% of hired workforce employed². As of December 31, 2019, the BOC received 6528 complaints, according to the Council's estimates, no less than two-thirds of those complaints were lodged by SMEs.

SMEs development is one of the Ukrainian Government priorities enshrined not only in the EU-

Ukraine Association Agreement, but also embodied in the SME Strategy for the period up to 2020, approved by the CMU Resolution No. 504-r of May 24, 2017 (SME Strategy). To have the SME Strategy implemented, the CMU adopted the Action Plan, approved with the Resolution dated May 10, 2018 No. 292-r, which, in turn, provides for achievement of certain objectives. Given SMEs complaints, including micro-business ones, occupy an important place in the BOC activities, the BOC's Supervisory Board has proposed the topic of SMEs for this systemic report. The BOC's systemic recommendations are expected to be used for further comprehensive analysis of the SME Strategy implementation measures and elaboration of further state policy directions for SMEs.

The Report commences with an **overall situation assessment by SMEs and effectiveness of the SME Strategy Action Plan**. In the BOC's view, there is a need to review the Action Plan for the SME Strategy implementation, which was to be implemented by January 1, 2020. The Government should approve updated realistic support and development measures for SMEs, covering activities for all these business entities groups (micro, small and medium-sized) and supported by appropriate financial resources. An overall focus should be laid on conditions for more rapid growth of small businesses and such structural changes in the SME sector that will facilitate transformation of small enterprises into medium-sized.

An important place in interaction between the state and SMEs

¹ State Statistics Service. Table "Number of Large, Medium-Sized, Small and Micro Enterprises by Types of Economic Activity in 2010-2018" without taking into account the results of activity of banks, budgetary institutions, as well as for 2014-2018 except for the temporarily occupied territory of the Autonomous Republic of Crimea, the city of Sevastopol and a part of temporarily occupied territories in Donetsk and Luhansk Oblasts.

² State Statistics Service. Table "Number of Employed Personnel of Large, Medium-Sized, Small and Micro Enterprises by Types of Economic Activity in 2010-2018" without taking into account the results of activity of banks, budgetary institutions, as well as for 2014-2018 except for the temporarily occupied territory of the Autonomous Republic of Crimea, the city of Sevastopol and a part of temporarily occupied territories in Donetsk and Luhansk Oblasts.



is occupied by the **SME Development Office** currently operating under the Ministry of Economy. The BOC has developed a number of recommendations to strengthen the office's capability to provide practical support to SMEs.

Another important part of the work is to increase the capacity of **local authorities to implement sound regulatory policies and control measures for SMEs** that would facilitate their development, increase their business volumes and help them to carry out their activities in compliance with the national law.

Tax authorities have a big impact on SMEs activities. SMEs are often subject to specific and sometimes excessive **control**

by tax authorities. The reason for it is usually malpractice of those market players that take advantage of the simplified regulation of micro- and small businesses operations. However, the BOC finds it necessary to emphasize that tax authorities should focus on factual circumstances of investigations rather than applying a common practice of a formal approach to these entities.

A number of BOC's recommendations are devoted to the **improvement of labor legislation** aimed at implementing modern labor law, simplifying reporting, documenting the procedure for hiring employees, reducing penalties for labor law violations.

Current state policy on SMEs states the importance of **promoting exports.** The BOC finds it necessary to provide indicators that would allow monitoring progress specifically for SMEs. Besides, the Report touches upon issues of Export Promotion Office, effective functioning of the Export Credit Agency (ECA) and the launch of the National Export web portal.

Limited access to **finance for SMEs** is one of the obstacles to business development. In this context, the BOC considers it necessary to review and evaluate the relevance of measures outlined in the SME Strategy Action Plan and prioritize actions that may have a rapid and significant impact on SMEs access to finance.

2.4. Summary of important investigations

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

TAX ISSUES

Subject: Tax inspections

Debt forgiving is not the same as additional income: UAH 74 mn case

Subject of complaint:
The Main Department of the State Fiscal Service in Khmelnytsky region (MD SFS)

Complaint in brief:

A Ukrainian plumbing manufacturer, who is part of an international concern with the head office in the Switzerland, approached the Business Ombudsman Council. The company disagreed with the tax audit results, according to which it had to additionally pay over UAH 74 mn in taxes to the budget.

In the period of 2012-2015, a Swiss company gave a loan worth EUR 40 mn for business development to its Ukrainian branch. Later, it made a management decision to credit the loan amount to the Ukrainian company's additional capital.

However, the MD SFS treated such a transaction as the Ukrainian company's additional income. According to the MD SFS's tax audit findings, a corporate profit tax worth over UAH 74 mn was due to be paid. Disagreeing with the tax authority position, the company challenged the decision in the State Fiscal Service and asked the Council for help.

Actions taken:

After reviewing the circumstances of the case, the investigator found out the Complainant prepared financial statements and accounting under International Financial Reporting and International Accounting Standards (IFRS/IAS). These standards do not equate the concepts of "equity" and "capital" and provide that shareholders may have different rights to a return of capital invested in a subsidiary company.

According to IFRS/IAS, cancellation of an obligation, including debt forgiveness, means reducing taxpayer's obligations and, accordingly, increasing its total taxable income. However, the revenue will only arise where an increase in economic benefits is not related to shareholders contributions.

In view of the foregoing, the Council upheld the Complainant's legal position and addressed the SFS in writing. The Council's investigator participated in the complaint consideration at the SFS.

Result achieved:

The SFS accepted the Council's arguments and satisfied the company's complaint. Fines and additional payments were dropped and the case was successfully closed.

Subject: Tax inspections

SFS drops over UAH 55 mn of additional payments for financial company

Subject of complaint:

The Main Department of the State Fiscal Service in Kyiv (SFS)

Complaint in brief:

A big financial company, one of electronic payments market leaders, approached the Council. The Complainant disagreed with the tax audit findings, according to which it had to additionally pay UAH 55 mn in taxes.

The tax authority officials stated the Complainant's electronic funds transfer (EFT) transactions were subject to VAT. For this reason, in addition to paying the tax itself, he also had to pay a fine for late registration of tax invoices. However, such a claim could not be agreed with. The said transactions were listed as exceptions in the Tax Code as such that are not subject to VAT. The Complainant objected to fiscal inspectors' conclusions. So, according to the company, the SFS decided to charge additional liabilities without properly analyzing the nature of disputed transactions.

Actions taken:

After examining case files, the Council upheld the company's position. The investigator noted the transactions that were the subject of the audit were not in fact subject to VAT. Accordingly, objectively there were no grounds for additional charges and tax invoices registration.

To protect the taxpayer's interests, the Council engaged the National Bank of Ukraine (NBU) as the relevant regulator in the discussion of the subject of complaint. NBU representatives agreed with the Complainant's position as well as the Council's approach.

Result achieved:

Following the case consideration outcome, the STS satisfied the financial company's complaint and dropped accrued liabilities worth over UAH 55 mn. The Complainant thanked the Council for assistance in resolving the case.

Subject: Tax inspections**Using “standard prices”
for VAT charge****Subject of complaint:**

The Main Department
of the State Fiscal Service
in Kyiv (SFS)

Complaint in brief:

An agricultural trader from Kirovohrad Oblast approached the Council. The Complainant disagreed with the tax audit findings, according to which he had to additionally pay UAH 8 million in taxes.

The tax authority stated that the Complainant had understated his VAT liabilities because he sold his agriproducts at below-market prices. Instead, the Complainant insisted that the sale price was based on certain market conditions and was determined based on delivery terms. In its conclusions the tax authority referred to statistical information from local government websites. According to the Complainant, the tax authority did not take into account that the published prices related to other commercial delivery terms different from the Complainant’s case.

The practice of the Council shows that the use of the so-called “standard prices” for VAT charge purposes is a commonly used approach applied in the SFS. Therefore, this case can be considered a kind of a positive precedent.

Actions taken:

After reviewing the case file, the Council upheld the company’s position in the part that sample pricing made by the SFS referred to irrelevant delivery basis, so during price analysis the SFS did not follow such a requirement as pricing comparability. The Council’s investigator also noted that price information the State Tax Service referred to was refuted by the State Statistics Service official information. In addition, the legislation does not currently regulate price comparison methodology and price benchmark calculations for VAT. In view of this, standard prices calculation cannot be treated as sufficient and admissible evidence.

Result achieved:

Having considered the case, the SFS satisfied the company’s complaint and dropped additional payment worth over UAH 8 mn. The Complainant thanked the Council for assistance in resolving the case.

Subject: VAT invoice suspension

Is your real business on a high-risk list? What can you do?

Subject of complaint:

The Main Department of the State Fiscal Service in Kyiv city (SFS)

Complaint in brief:

A company specializing in industrial machinery installation complained to the Council about having been unreasonably put on the risky taxpayers list by the SFS.

The legislation allows fiscal authorities to add businesses with negative tax information to the risky taxpayers list. The acquisition of such a status has extremely burdensome consequences for a taxpayer. First of all, such company's tax invoices are likely to be "blocked". And counterparties usually refuse to cooperate with companies having trouble with such tax invoices registration.

The Council sometimes receives complaints where "risky" signs can be discerned with the naked eye. For instance, the company is registered as a titular CEO or a "mass registration" address is used.

However, this complaint came from a real business. The company CEO was concerned about the situation and did not know what to do. In addition, the SFS was not quick to explain the reasons for its decision to the company in detail and argue the need for chosen actions.

Actions taken:

The Council asked the SFS to explain in detail why the company had been put on the risky taxpayers list. Not having received the answer on the merits, the investigator addressed the tax office again requesting to analyze whether the grounds to qualify a real enterprise as risky were sufficient.

In addition, the investigator arranged and participated in a working meeting with the SFS representatives to discuss the company's issue. As it turned out, the tax authority doubted the fact the company was located at the address of registration and received postal correspondence. During the meeting, the Complainant proved the company was indeed located at the specified address and offered SFS representatives to visit the company's office and a production facility.

He also confirmed readiness to receive a request for information from the tax authority and respond to it.

Result achieved:

The SFS admitted its conclusions were premature and removed the company from the risky taxpayers list. The Complainant can operate as usual again.

Subject: Tax other**Inexorable SFS: how businesses have to pay the maximum single tax rate****Subject of complaint:**

The Main Department of the State Fiscal Service in Kirovohrad Oblast (SFS)

Complaint in brief:

The Business Ombudsman Council was approached three times by a businessmen couple from Kirovohrad Oblast. Now we are going to tell you about the subject of complaints in the third case here.

The Tax Code (TC) requires an individual entrepreneur's business to be registered at the place of residence. That's exactly what entrepreneurs from Kirovohrad did. They registered a business in their own house in the village of Prysche pivka, while actually worked in the city of Novomyrhorod, which is 12 km away from Prysche pivka. The two administrative units are accountable to different local authorities, and have the same rate for the second group single tax taxpayers – 10%. However, the SFS imposed a 20% tax of the minimum wage per month on the complainants.

When substantiating its position, the SFS referred to the TC. If a taxpayer of the second group doing business in the territory of more than one administrative unit, the maximum rate of the single tax is applied. Since place of work of spouses-entrepreneurs and their tax address do not match, then, in the opinion of the supervisory authority, they are doing business in more than one administrative unit. Thus, the maximum single tax rate should be applied.

The complainants strongly disagreed with this instead and insisted that they worked in Novomyrhorod only, while were just registered and resided at their home address.

Actions taken:

After reviewing the case file, the Council upheld the entrepreneurs' position.

According to the TC, single tax is paid at the tax address. A private entrepreneur's tax address is the place of his/her residence, at which he or she is registered as a taxpayer by the supervisory authority. Hence, a private entrepreneur's tax address is anyway his or her place of residence. However, the concept of "business activity" has an independent meaning associated with production/delivering works/ services, and therefore cannot automatically cover the fact of a private entrepreneur's residing at a certain address.

The Business Ombudsman Council concluded in the case of complainants, their tax address was solely their place of residence as individuals and in no way related to the business activity.

The investigator expressed this position to the SFS in writing and asked to recalculate the single tax amount for entrepreneurs.

In addition, the investigator went to Novomyrhorod to personally meet with the supervisory authority representatives in the course of the complainants' case review.

Result achieved:

However, the SFS remained steadfast and refused to apply a 10% tax rate. The Council suggested the complainants two options to follow up:

- 1) Stop paying the maximum single tax rate and go to court after receiving a respective SFS tax claim. The case-law in similar cases shows in favor of business.
- 2) Allow the SFS to inspect the complainants to confirm the fact of carrying out business activity only in Novomyrhorod.

However, entrepreneurs accepted neither of the proposed options. Therefore, the Council had to dismiss the case.

ACTIONS OF THE NATIONAL POLICE

Subject: National Police other

Penalize impossible to skip

Subject of complaint:

The National Police, Patrol Police Department in Odesa Oblast (Patrol Police)

Complaint in brief:

A steel ropes manufacturer from Odesa Oblast turned to the Council. The company complained against the Patrol Police that systematically and unreasonably brought its employees to administrative liability.

According to the law, technical inspection of all car types and models is optional. The exception is vehicles carrying passengers and goods for profit – a taxi, for example.

The company has its own large truck fleet. Trucks carrying products are regularly inspected as required by law. However, the Complainant didn't conduct a mandatory passenger cars inspection for the administrative staff. These cars are not subject to legal requirement, since the company does not receive income directly from transportation.

However, Odesa Patrol Police was not particularly interested in the transportation purpose. When they met the Complainant's official car (with the director being brought to the meeting, or an accountant to the tax authority's office), the car was stopped and an administrative fine was imposed on the driver for driving the car, which did not pass the technical inspection.

And so, the company addressed the Council with such a problem of law interpretation by law enforcers.

Actions taken:

The investigator examined the subject of the complaint and the legislation governing it. In particular, he found out it was the intended use of the car that was the key criterion in similar situations. If profit is derived directly from carrying passengers or goods, technical inspection is mandatory. However, in the Complainant's case the situation was quite different. It was used to carry the administrative staff. Therefore, according to the Law of Ukraine "On Road Traffic" and clause 1, 2 of the CMU Procedure No.137, such a passenger car is not subject to mandatory technical control.

The investigator also provided several examples of administrative courts case-law, the decisions of which testified in favor of the complainant.

Realizing that the problem may be repeated in other regions of Ukraine, the Council recommended that the Head of the National Police of Ukraine conduct a methodological awareness-raising campaign on this subject among his staff members.

Result achieved:

Following the Council's recommendations, the National Police provided a written response and informed all regional divisions of inadmissibility of drawing up administrative protocols for drivers of cars registered to legal entities and not carrying passengers to get proceeds from transportation. The case was successfully closed.

ACTIONS OF PROSECUTOR'S OFFICE

Subject: Prosecutor's Office criminal case initiated

Criminal proceedings against Canadian investor closed

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

Complaint in brief:

A company with Canadian investments approached the Council with a complaint against law enforcers actions. The Complainant disagreed with charges against him in a criminal case.

According to the Complainant, when planning a solar power plant construction in Mykolaiv Oblast, the company purchased solar batteries worth over UAH 200 mn from the supplier. The vendor formed a tax credit for this transaction. One third of the amount, UAH 17 mn, was refunded to the Complainant in early 2019 after the performed audit.

Two months later, the foreign investor faced Ukrainian realities. A local prosecutor initiated criminal proceedings against the company. According to law enforcers, the Complainant agreed with the supplier and SFS officials in Mykolaiv Oblast and divided illegally received budget VAT refund among themselves. The investor could not even imagine law enforcers would initiate criminal proceedings based on a refunded tax, the amount of which had been confirmed by the fiscal authority itself.

Due to open criminal proceedings, the Complainant's economic activity was blocked. It also significantly harmed the foreign investor's reputation before international financial institutions and partners.

Actions taken:

So, the Council faced such a difficult situation in the course of case investigation.

After examining the case file, the Council's team concluded tax credit formation during construction, provided absence of other business transactions of the company, was a common practice, as a company consolidating fixed assets and selling nothing yet, acted as a construction works and materials end customer.

The Council upheld the company's position and concluded it was unreasonable to continue criminal proceedings. The Council informed the Prosecutor General's Office of Ukraine in writing thereof and asked the government agency to impartially consider the company's application for closing criminal proceedings. Moreover, the Complainant's case was brought up for the Expert Group consideration within the framework of permanent cooperation between the Council and the Prosecutor General's Office of Ukraine.

Result achieved:

Law enforcers accepted the Council's arguments. The criminal proceedings against the company, which lasted 5 months, were finally closed. According to the government agency, there was no crime in the Complainant's actions. The company thanked the Council's team for assistance in restoring its legal rights and emphasized: "Our case is a clear message to all international investors that the rule of law in Ukraine is respected."

Subject: Prosecutor's Office inactivity**Criminal case against developer from Kyiv Oblast finally closed**

Subject of complaint:
Kyiv Oblast Prosecutor's Office (Prosecutor's Office)

Complaint in brief:

A developer building a residential complex (Complex) in Kyiv Oblast appealed to the Council. The company complained about interference of the Prosecutor's Office with its business activity and law enforcers pressure, who put the further Complex construction at risk.

According to the Complainant, the prosecuting authorities doubted that he lawfully used the land plot of the Complex. Thus, the Prosecutor's Office was concerned about land plot lease and sublease agreements compliance with current legislation. However, all courts – of the first instance, the appellate and the cassation ones – confirmed that developer's documents were ok. Moreover, even in 2017, the court ordered law enforcers to return temporarily seized property to the Complainant within the framework of the investigation.

Notwithstanding that fact, law enforcers were in no hurry to comply with the court order. The company turned to the Business Ombudsman with this issue.

Actions taken:

The Council had been working on the complaint for almost two years. Having gone through all the instances, the investigator addressed the Prosecutor General of Ukraine. However, for a long time law enforcers replied only that the land assessment examination was ongoing. The Council, for its part, referred to current legislation, which did not provide for the mandatory handing over all case files during the examination, and insisted on the court order enforcement.

Result achieved:

After months of delay, criminal proceedings against the Complainant were closed due to absence of a crime. The company asked the Council to complete investigation of the complaint and thanked for assistance: "We are confident that the work of the Business Ombudsman's team has significantly contributed to the successful outcome of our case."

Subject: Prosecutor's Office criminal case initiated**Criminal proceedings against Oil Transportation Institute finally closed**

Subject of complaint:
Kyiv City Prosecutor's Office
(Prosecutor's Office)

Complaint in brief:

Shareholders of Oil Transportation Institute (ITN), a leading company dealing with design and maintenance of oil transportation, storage and distribution facilities, turned to the Council. The company complained against the Prosecutor's Office violating pre-trial investigation reasonable time limits. According to the Complainant, the criminal case was deliberately delayed to extend seizure of the company's securities.

The criminal proceedings against the Complainant were initiated back in 2016 based on a former company's CEO application. According to the application, 6 years before, a group of people fraudulently seized the company's shares. At the same time, the Complainant stated the ex-CEO sold securities voluntarily, which was confirmed by contractual documents bearing his signature. It is of interest the plaintiff decided to appeal to law enforcers only after he had been decided to be removed from office. Then, according to the Complainant, the ex-executive began to block holding meetings and decision-making on changing the company's top management.

For over three years no investigative actions except for filing petitions for arresting majorities' shares were taken in the framework of initiated criminal proceedings. Meanwhile, given regular arrests, the Complainant could not dispose of his property. That was the reason why he asked the Business Ombudsman for assistance.

Actions taken:

The Council sent written appeals to Kyiv City Prosecutor's Office and the Prosecutor General's Office of Ukraine (PGO) requesting to take control of the pre-trial investigation. The investigator stressed that reasonable time limits for pre-trial investigation had been violated long ago and it was important to make a procedural decision on the case as soon as possible.

The Prosecutor's Office replied that procedural persons in charge found no delays or reasonable terms violations.

The Council continued working on the complaint over eighteen months. The Complainant's issue was repeatedly brought up for consideration at the Working Group meeting with the PGO.

Result achieved:

In November 2019, the Council signed a Memorandum of Cooperation with the PGO. The Complainant's case was passed to the new PGO top management.

In less than two weeks, the case against the company, which had been under trial for over three years, was finally closed. The Complainant thanked the Council for assistance: "For eighteen months the Council's investigators and the Business Ombudsman closely co-operated with us by informing of joint meetings at the PGO and Kyiv City Prosecutor's Office level. The work was consistent and continuous. This case is not our first successful collaboration experience with the BOC. For us, the Council's way of working is an additional mechanism for a transparent, predictable and objective protection of our interests and fight against corruption instances."

ACTIONS OF THE MINISTRY OF JUSTICE

Subject: MinJustice Registration Department

The state registrar from Donetsk Oblast gets his accreditation withdrawn

Subject of complaint:

The Ministry of Justice of Ukraine (MoJ)

Complaint in brief:

A metallurgical company from Donetsk Oblast appealed to the Council with a complaint against the state registrar malpractice.

In the fall of 2013, the company took a loan from the bank with the maturity period until the end of 2015. The company pledged its property complex under the loan. In the fall of 2014, the Complainant repaid the loan under this agreement by debiting funds from his current account in the same bank.

Troubles began when the lending bank went bankrupt. The bank liquidators concluded the loan repayment was incompliant with the Resolution of the NBU Management Board on establishing supervision over the bank activities, since the funds for loan repayment had been transferred not to the NBU correspondent account.

In the autumn of 2018, almost four years after recognizing legal relationship under the loan agreement terminated, the bank's representatives addressed the Complainant with a demand to repay the loan, and in February 2019 the village council state registrar registered the ownership right to mortgaged property owned by the complainant to the bank.

Company lawyers took diverse appropriate actions to protect their rights. In particular, pre-trial investigations were initiated based on the Complainant's applications, within the framework of which the property had been arrested. The Complainant also appealed to the Commercial Court to declare the debt obligations terminated, to the Complaints Commission in the sphere of state registration of the MoJ (Commission), and to the Business Ombudsman Council – regarding the registrar's actions.

Actions taken:

The investigator examined the circumstances of the case and established that in May 2019 the Commercial Court recognized the Complainant's debt liability terminated as of 2014; and the Deposit Guarantee Fund authorized temporary administrator's actions – an infringement of peaceful property disposition rights.

The investigator also established the registrar had no legal grounds for re-registering property since at that time the ban on alienation of businesses' immovable property located in the zone of Anti-Terrorist Operation as provided by Article 9 of the Law of Ukraine "On Temporary Measures for the Anti-Terrorist Operation Period" was in force.

The Council turned to the Deputy Minister of Justice of Ukraine for state registration. The investigator asked to initiate a review of the state registrar's activities, who re-registered the property complex to the bank. The Council's investigator also participated in the complaint consideration by the Commission.

Result achieved:

The MoJ informed the Council of the withdrawal of accreditation of the registrar, who violated a direct prohibition of Article 9 of the Law of Ukraine "On Temporary Measures for the Anti-Terrorist Operation Period".

However, the Commission refused to cancel registration actions, stating that at the time of complaint consideration the court decision on recognition of debt liabilities terminated was being considered in the second instance. As the Council does not interfere with the work of the courts, we dismissed the case at this stage.

After receiving the appeal judgement in its favor, the company filed a claim for cancellation of registration actions not canceled by the Commission.

Currently two pre-trial investigations are ongoing: one regarding abuse of office by the state registrar and the other one – regarding bank officials under Article 356 of the Criminal Code (Arbitrariness).

Subject: MinJustice Registration Department**Incredible story about incompletely terminated entrepreneur status****Subject of complaint:**

Bucha City Council
Administrative Services
Center

Complaint in brief:

The Business Ombudsman Council received a complaint from a private entrepreneur arguing that government agencies were unable to completely register a termination of her entrepreneurial activity. As a result, she had a debt to the tax authority.

The entrepreneur decided to terminate her business activity. She approached the Administrative Services Center to do it. The state registrar gave her a description of the submitted documents and assured that termination of her business activity would be registered. However, the state registrar made a mistake. Instead of performing "decision to terminate" and "termination" registration actions she performed only the first one. The termination of business activity remained "incompletely" registered. And under the law, every private entrepreneur, even an inactive one, has to pay a unified social contribution (USC) from a minimum salary.

As a result, when 9 months later the entrepreneur learned (by post from the tax authority) that termination of her business activity had not been registered, the debt of the USC was already over UAH 6k. One can easily imagine what the entrepreneur felt at that moment.

When she turned to the tax authority, they simply threw up their hands and explained they relied on the state register data, from where she had not been excluded yet. Therefore, the USC continued being accrued. The entrepreneur came to the Administrative Services Center to complete the liquidation process. But the civil servant, who made the mistake had already changed her occupation by that time. Fortunately, her manager, realizing his responsibility, got down to correcting his colleague's failure. But instead of performing the registration action on the documents submission date, he performed it on an error detection date.

As a result, the tax authority received a notice of liquidation and made sure of its having been right – the private entrepreneur was registered for the past eight months and the USC was accrued correctly. Accordingly, the USC claim was sent to the Enforcement Service and enforcement proceedings against the entrepreneur were initiated, the enforcement fee was charged. Her bank accounts were blocked.

The former entrepreneur fundamentally disagreed to put up with the absurd situation. She repeatedly turned to the Registration Department requesting to correct the mistake in the register (change the termination date of her business activity to the correct one), but received replies with apologies for the inconvenience caused and explanations that correcting the date was technically impossible. She then tried to complain against the registrar's actions to the Ministry of Justice, but received formal replies stating that her complaints

did not meet formal requirements (improperly certified copies, no confirmation of ongoing trials absence).

The ex-business lady turned to the Business Ombudsman Council at quite a late stage, when refusals had been received almost from everyone and there was little hope for a happy ending.

Actions taken:

Predictions following preliminary case assessment did not look particularly encouraging. The Council had no doubt at all the Complainant was right. However, bureaucratic deadlock lasted for too long to expect to get out of it extrajudicially. At the same time, telling the Complainant the BOC couldn't start investigating her case and her last hope was going to court would be the same as telling there was no hope at all in this case.

So, the Council decided to try to help. Here's what the investigator in charge and the BOC's team did:

- 1) Advised the Complainant to lodge a complaint to the territorial justice authority against omission of the subject of state registration having made sure the complaint met all the formal requirements. The Registration Department not long before provided the Complainant with another written reply explaining impossibility of correcting errors in the register. Based on this response receipt date, one managed to prove that the deadline for filing a complaint was not violated (by the way, the expiration of deadlines is often the main obstacle in solving such old stories).

- 2) During complaint consideration, the Council was once again told it was technically impossible to correct the register error, and one even referred to the corresponding letter of the technical administrator of the register. Therefore, the Commission did not consider it possible to correct the date of termination of business activity. However, the Council's investigator managed to convince commission members it cannot be left just like that, at least in the reasoning part of the commission's conclusion it was necessary to establish as a fact that state registrar's actions were illegal and to impose a sanction on such state registrar. It was not a success yet, but a small step forward.

- 3) "Equipped" with the commission's conclusion in which the facts of state registrar's illicit actions and incorrect business activity closing date were established, the investigator together with the Complainant went to the tax authority to convince tax officers to correct the information on an outstanding USC. The dialogue was difficult at first. Fortunately, the Head of the department was imbued with this issue and was eager to solve it. Following the communication, the tax authority, originally set to write another refusal to the entrepreneur, decided to apply to the territorial department of justice with an official request, asking to confirm the Complainant's version of the real business activity closing date.

4) Then the Council only had to contact the territorial department of justice and make sure one would provide a timely and meaningful reply to the tax authority's request.

5) Based on the received reply, the tax authority corrected the information on allegedly existing nine-month-old USC debt in the taxpayer's integrated card. It was almost a victory.

6) At the Council's request, the tax authority informed the state executor on withdrawal of a previously sent debt collection request. Based on this request, the enforcement proceedings were closed and the Complainant's accounts were unblocked, without the enforcement fees and enforcement proceedings costs being charged.

Result achieved:

Though almost nobody believed it at first, but the case was successfully resolved.

It may not look quite impressive in the long run. In fact, actions taken and efforts made within the case were much more numerous than in many cases where millions of hryvnias are at stake. On top of that, in this case, success was always "hanging by a thread" and the Council's team felt all the time it could slip away as a result of any false step.

A successful outcome of such cases is particularly motivating. Firstly, there is a sense the Council really helped the individual having no other possibilities or resources to protect his or her interests. If the BOC's team hadn't got involved in the situation it was highly likely the business lady would have just put up with it. Secondly, at such moments you realize, yet there are exits from the most twisted, at first glance, bureaucratic mazes, that can be found through persistence and a certain bit of luck. In this case, the luck was to meet in state authorities several people who were supportive and willing to help.

ACTIONS OF STATE REGULATORS

Subject: StateGeoCadastre

Locality boundaries approved with the Council's facilitation

Subject of complaint:
The Main Department of the State GeoCadastre in Zaporizhzhia Oblast (StateGeoCadastre)

Complaint in brief:

The Institute of Effective Technologies-Geo, a company from Zaporizhzhia, delivering geodesy and land management services approached the Council. The Complainant disagreed with the StateGeoCadastre's remarks on the land use documentation.

The Complainant developed a land management project to change the boundaries of Grygorivka village of Polohivskyi district in Zaporizhzhia Oblast. According to the legislation, the said documentation is subject to state expert audit. However,

the StateGeoCadastre several times in a row refused giving the Complainant a positive expert's opinion on the state examination results.

It should be noted that land management complaints are particularly difficult cases, as legislation in this area is ever changing. Due to this fact authorized authorities' decisions may not always be predictable for businesses. Moreover, land users quite often come across incorrect information contained in the respective state registers. A similar situation occurred in this complaint as well.

Actions taken:

In the framework of the complaint the Council's investigator in charge helped arrange and hold a meeting with the Complainant and the StateGeoCadastre. The parties openly and objectively discussed the remarks to documentation and approved the procedure to eliminate them. During the meeting, the investigator stressed the need for good administration principles to be practically implemented in the work of state agencies, as well as partner relationships between the business and the state to be built.

Result achieved:

Following the discussion, the Complainant was able to obtain a positive state audit opinion and proceed to the next stage of setting the locality boundaries. In this particular case the StateGeoCadastre top management demonstrated a really constructive approach and actively contributed to resolving the issue.

Subject: Other state regulators

After year of delays and rejections State Labor Service extends permit validity term for dairy plant

Subject of complaint:

The Main Department of the State Labor Service of Ukraine in Kharkiv Oblast (SLS)

Complaint in brief:

A dairy plant from Kharkiv Oblast addressed the Council. The company complained against the SLS, which delayed the renewal of the permit for performing hazardous works and exploiting hazardous machines, mechanisms, and equipment (permit).

In order to obtain this permit, the company must submit an occupational and production safety report to the SLS and officials must confirm the company's capability to perform hazardous works.

In late 2018, the dairy plant appealed to the SLS with a request to extend the permit validity term. However, the authority kept quiet for four months. When the Complainant once again reminded of himself, the SLS reported the extension was only possible after the unscheduled company inspection. To do this, the company had to apply with a corresponding application to the SLS. We would like

to point out under the legislation a public service cannot refuse extending a permit validity term for the company should it have no violations.

Realizing that the SLS rejected unreasonably, the Complainant applied to the Main Department of the SLS and the Ministry of Social Policy for assistance. These government agencies supported the company and confirmed that SLS had to extend the permit term. One advised to reapply.

However, the SLS refused again. This time, for reasons associated with obtaining another permit in 2014-2015, which the SLS never mentioned about before at all. At this stage, the company appealed to the Business Ombudsman Council.

Actions taken:

The Council's investigator examined the documents and circumstances of the case. She concluded the SLS had repeatedly violated the procedure as well as permit issuance terms. In particular, when re-examining documents, a refusal to issue a permit document to the applicant for reasons not previously stated in the written notice is prohibited.

In order to quickly understand the situation, the investigator called the SLS officials and discussed the company's issues. In addition, she arranged a meeting with the Deputy Head of SLS of Ukraine and discussed the preliminary position on the complaint. The Council upheld the company's position in writing and asked to issue the necessary documents.

Result achieved:

The Complainant informed the Council by email the SLS extended the permit term for the company till 10.01.2024. The dairy plant thanked the Council for assistance in solving the problem: "Owing to the work of the Council, the company restored its violated rights and legitimate interests and finally solved a crucial issue on permit extension, which the Main Department of the SLS in Kharkiv Oblast refused to resolve for almost a year, despite all legal grounds for that in place". The case was closed successfully.

ACTIONS OF LOCAL GOVERNMENT AUTHORITIES

Subject: Local government authorities — land plots

Entrepreneur from Mykolaiv Oblast finally gets his land management project approved

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

Complaint in brief:

A company from Mykolaiv Oblast which unsuccessfully tried to approve the land management project with Mykolaiv RSA for three years turned to the Council.

The Complainant three times asked Mykolaiv RSA to allow to prepare the land management project concerning the land plot allocation from state property to private lease. The Complainant's buildings and warehouses had to be located there. According to the company, officials delayed signing the necessary project for three years in a row.

The entrepreneur even addressed the President of Ukraine with this issue. Having visited Mykolaiv, the President reprimanded the Head of Mykolaiv RSA, and a dispute arose between them in this regard.

Actions taken:

The Council asked the President in writing to check the circumstances of the complaint. The investigator also emphasized the importance of applying the good governance principle when considering the company's petitions. Accordingly, the Council asked to check how the Head of the RSA adhered to the law and followed that principle.

The Council recommended Mykolaiv RSA to promptly consider the company's appeal.

Result achieved:

With the assistance of the Council, the company finally got the land management project approved. The case was closed.

3. Cooperation with stakeholders

One of the Business Ombudsman Council's key goals is providing effective systemic communication of business with the authorities, government and local self-government agencies, as well as state-owned enterprises or subordinate to government agencies.

3.1. Cooperation with state bodies

The Memorandum of Partnership and Cooperation with the Prosecutor General's Office of Ukraine

In November 12, 2019, we signed the Memorandum of Partnership and Cooperation with the Prosecutor General's Office of Ukraine.

The Memorandum is aimed at preventing state bodies malpractice, working to resolve systemic business issues and formalizing a permanent cooperation at expert groups level. Prior to official document signing, the parties cooperated in working groups format – since autumn 2016, 19 such meetings have been held with the participation of top management of both parties. Pursuant to Memorandum, an expert group will be created.



'Prosecutor's Office effective work is key to ensuring investors credibility and creating a favorable investment climate that in turn triggers economic growth and well-being in our country. In order to be more focused on society needs, including investors, business representatives, we, together with the Business Ombudsman Council, set up a permanent working group to review complaints from business representatives', pointed out **Ruslan Riaboshapka**, Prosecutor General.



The Memorandum is a solid foundation for cooperation. These are agreed rules of interaction and communication. I think signing of the Memorandum with the Council is an important signal for entrepreneurs that the Prosecutor General's Office instructs its functional and regional divisions to act in accordance with the law. It also means entrepreneurs will have an additional tool to protect their legal rights. I am convinced that our constructive cooperation with the Prosecutor's Office authorities will improve conditions for doing business in Ukraine', emphasized **Marcin Świącicki**, Business Ombudsman.

Memoranda of Partnership with the State Tax Service and the State Customs Service

On November 6, 2019, we signed Memoranda of Partnership with the State Tax Service and the State Customs Service.

Until that time, the Memorandum of Partnership and Cooperation between the State Fiscal Service and the Business Ombudsman Council was in effect for four years. The new Memoranda are intended to continue cooperation at an expert group level, as well as systemic recommendations implementation and tax and customs authorities reform embedding.



”

Re-signing Memoranda with new Tax and Customs Services means further cooperation between our institutions. Our common goal is to create a decent business environment in Ukraine, promote Ukrainian businesses development and encourage foreign investments. We hope new tax and customs authorities use our systemic recommendations on tax administration, foreign economic activity regulation and business problems solving in the customs sector in the course of services reform”, stressed **Marcin Świącicki**, Business Ombudsman.

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Today we are starting a new page of our cooperation with the Business Ombudsman Council. Both parties – taxpayers and state bodies – benefit from the professional presentation of business issues by the Business Ombudsman. With a special attention we are focusing on handling complaints presented by the Business Ombudsman Council and aggregated reports on them. These are roadmaps based on the specific cases we are considering online. After all, understanding specific problems of companies that approach the Business Ombudsman Council is a way to understand systemic problems in implementing tax policy and an effective opportunity to find agreed solutions. We have a common goal – to provide favorable conditions for business”, said the Head of the State Tax Service **Serhiy Verlanov**.

”

Signing of the Memorandum with the Business Ombudsman Council reaffirms our desire to make the same rules of the game for all. The huge number of conflicts that exist in customs legislation leads to smuggling in the country and corruption at customs points. We are very grateful for the comprehensive support from Business Ombudsman Marcin Swiencicki and together with the newly created expert group we will improve the situation at customs”, commented the Head of the State Customs Service **Maksym Nefyodov**.

In such a way,
the BOC has signed

12 Memoranda of
Cooperation with:

1. the State Regulatory Service
2. the Ministry of Justice
3. the State Fiscal Service
4. the National Anti-corruption Bureau
5. the Ministry of Ecology and Natural Resources
6. the Kyiv City State Administration
7. the National Police
8. the National Agency on Corruption Prevention
9. the State Security Service of Ukraine
10. the State Tax Service
11. the State Customs Service
12. the Prosecutor General's Office

Expert group meetings

Expert groups are a platform for open and transparent consideration of specific complaints, as well as improvement of the legislation that regulates entrepreneurial activity, and removal of obstacles to conducting business in Ukraine.

State Tax Service	3	44
Ministry of Ecology and Natural Resources	2	2
Prosecutor's Office	1	18

Total

Number
of meetings

6

Number of cases
considered during
these meetings

64

Government Commission on Business Protection

Кабінет Міністрів
України

Business Ombudsman Marcin Świącicki joined the Commission on Business Protection of the Cabinet of Ministers (Commission). The Commission is set up to improve the business climate in Ukraine and protect companies from malpractice of state officials. The Commission comprising 10 people is chaired by Prime Minister Oleksiy Honcharuk.

According to the Commission's Regulations, complaints, that pass the BOC eligibility criteria, are directed to the BOC for consideration. The most significant cases affecting the country's business climate are reviewed by the Commission. Decisions of the Commission, when necessary, are published on the official website of the Cabinet of Ministers.

In Q4 2019, the Council received 20 complaints through this application procedure. There were two meetings of the Commission to review major malpractice of state bodies described in these appeals.

3.2. "SME Season" project with USAID



In 2019, the Ukrainian Government had to complete the implementation of the Strategy for SME development until 2020 and develop a new strategic document in this area.

That is why the Business Ombudsman Council devoted its new systemic report to evaluation of the Strategy implementation and issue recommendations for

further public policy prospects in this area. **USAID Competitive Economy Program** supported the BOC in assessing the current state of the Strategy implementation and identifying major gaps in policy, regulatory burdens and administrative barriers for SMEs as well as improvements, which can be expected in the respective areas.

During regional seminars "Business Inspections: Main Challenges after the Moratorium" for small and medium-sized businesses we advised local entrepreneurs how to pass inspections of supervisory authorities, we discussed how to address recordkeeping and reporting issues and explained them how to improve the risk management ability inter alia.



300 guests
from various
regions



Ivano-Frankivsk
November 4, 2019

Vinnitsia
October 28, 2019



Odesa
October 21, 2019

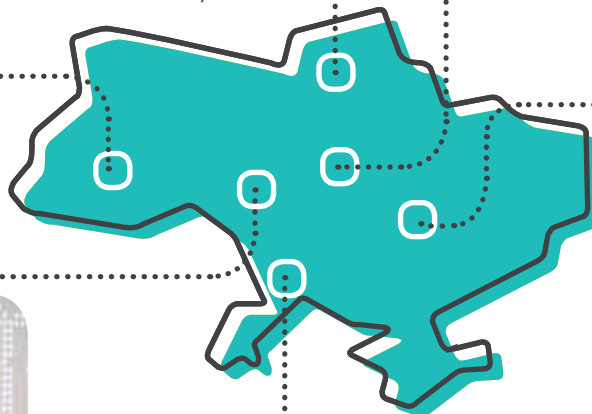


Chernihiv
November 14, 2019



Cherkasy
October 18, 2019

Zaporizhzhia
November 19, 2019



During these events, special focus groups meetings with entrepreneurs were conducted. In a facilitated discussion representatives of business shared their issues in dealing with state bodies. Focus groups in 6 oblasts were then supplemented by online questionnaires during December 2019. In general, 268 entrepreneurs took part in the research. Results of discussions in focus groups as well as additional on-line questionnaire on the same topic conducted after the regional tour were used for shaping recommendations for a new strategic document on SMEs development to be further processed and approved by the Government of Ukraine.

3.3. Regional seminars with UNIC

Jointly with the Ukrainian Network of Integrity and Compliance, we continued the tradition of holding educational events in regions of Ukraine.

With **250** guests altogether in all cities we talked about how the Business Ombudsman Council can help entrepreneurs to solve problems with government agencies with a focus on labor law issues.



In November-December 2019 we visited:



CHERKASY
November 28, 2019

LUTSK
November 13, 2019

MARIUPOL
November 21, 2019

KHMELNYTSKYI
November 11, 2019



MYKOLAIV
December 3, 2019



UNIC

Events were organized by the UNIC with the support of the Business Ombudsman Council, the Embassy of the Kingdom of the Netherlands in Ukraine, the Chamber of Commerce and Industry of Ukraine.

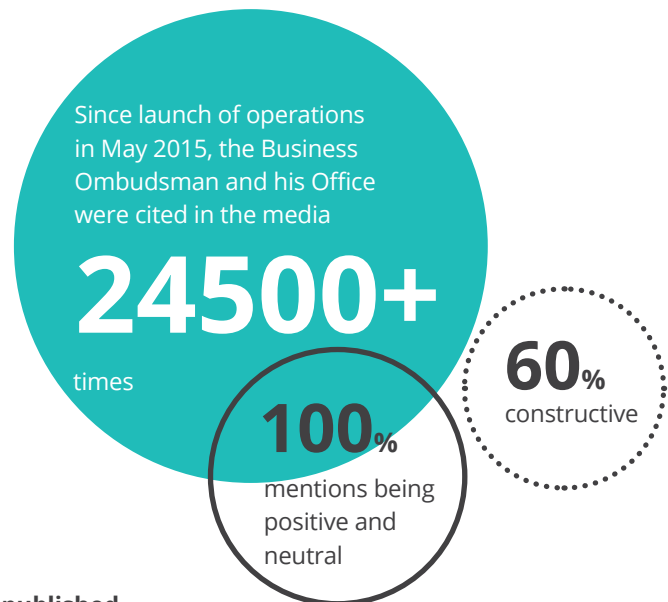
3.4. Public outreach and communications

The Business Ombudsman Council uses public communication to report trends of appeals, submitted by companies, voice systemic business issues and suggest ways to solve them.

It is worth mentioning that we cooperate with media only on the free of charge basis, providing from our side expert opinions, legal analysis and recent statistics concerning malpractice of state bodies.

The media

Given the mission to protect legal rights of entrepreneurs and improve the business climate in Ukraine, we enjoy the willingness of journalists to communicate our work results. The level of legal expertise and the skill to convey the message through is also highly appraised by media channels – our experts are frequent authors at major online platforms, speakers at forums and seminars, guests in TV and radio studios.



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

Business media



Specialized legal media

ЮРИСТ

We also made a number of TV



and radio appearances



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.

Events

11/10

International Business Conference: “Creating Enabling Environment for Sustainable Business in Eastern Europe and Central Asia” organized by the Business Ombudsman of Georgia, Tbilisi



16/10

Smart Ethics, Security & Compliance Conference 2019, organized by Ethicontrol



18/10

Second Round of Consultations Ukraine – EU-EBRD Country-specific Investment Climate Reviews and Action Plans for Eastern Partnership countries, organized by the EBRD

22/10

Meeting with Dmytro Natalukha, Head of the Verkhovna Rada of Ukraine Committee on Economic Development, organized by American Chamber of Commerce in Ukraine



24/10

Presenting the Business Ombudsman Council activities to students of Ukrainian Catholic University



25/10

Business Breakfast with Polish Business Community and Business Support Institutions in Ukraine, organized by the Foreign Trade Bureau in Kyiv



29/10

The International Investment Forum RE: think in Mariupol, initiated by the President of Ukraine



29/10

Re: think. Entrepreneurial journey with EU4Business programs, organized within the International Investment Forum RE: think



30/10

II Legal Real Estate Forum, organized by Yuridicheskaya Praktika



30-31/10

Anti-corruption event for Eastern Europe and Central Asia organized by the Organization for Economic Co-operation and Development, Paris



13/11

Meeting with participants of the Union of Ukrainian Entrepreneurs – SUP



19.11

Meeting “Support for Ethical Business Practices in Europe and Eurasia”, organized by the Center for International Private Enterprise



06/11

IV Corporate Security Conference, organized by Association of Corporate Security Professionals and Sayenko Kharenko



13/11

Discussion on the prospects of partnership between business and government aimed at achieving global goals, organized by the United Nations Development Programme in Ukraine and Lviv Business School



19-20/11

Asia-Europe Regional Seminar, organized by Construction sector transparency initiative, Dubai

20/11

Roundtable on "Securing the Rights of Legal Entities in the Context of Transparent Business Management", organized by the EUAM to Ukraine and the Kirovograd Chamber of Commerce and Industry in Kropyvnytskyi



07/11

Discussion of amendments to Enforcement regulatory framework, organized by The EU Project "Pravo-Justice"



19/11

Tax&Business Talks — III Tax forum, organized by the Ukrainian Advocates' Association



21/11
 Roundtable with USA Ambassador William B. Taylor, organized by the U.S.-Ukraine Business Council



25/11
 Joint Meeting with Ivan Bakanov, Head of the State Security Service of Ukraine, organized by the Union of Ukrainian Entrepreneurs and the American Chamber of Commerce in Ukraine



28/11
 Meeting with representatives of the Chamber of Commerce and Industry in Ukraine



28/11
 Commercial Counsellors Meeting in EU Delegation



04/12
 Memorial Dinner to commemorate the life of John Hughes, the British founder of Donetsk, organized by The British Ukrainian Chamber of Commerce and the Donetsk Chamber of Commerce



10/12
 Meeting with participants of CEO Club of Ukraine



11/12
 SMEs 2019 National Development Forum: Growing together, organized by the Chamber of Commerce and Industry of Ukraine, the Small and Medium Business Development Office under the Ministry of Economic Development and the EU4Business / FORBIZ project with the financial

support of the Delegation of the European Union to Ukraine.



13/12
 12 Successful Democracy and Market Economy – the Role of Women, organized by the Center for the Study of Democracy

16/12
 Discussion focused on effectiveness of the Procedural Code for Administrative Courts, organized by The EU Project "Pravo-Justice"

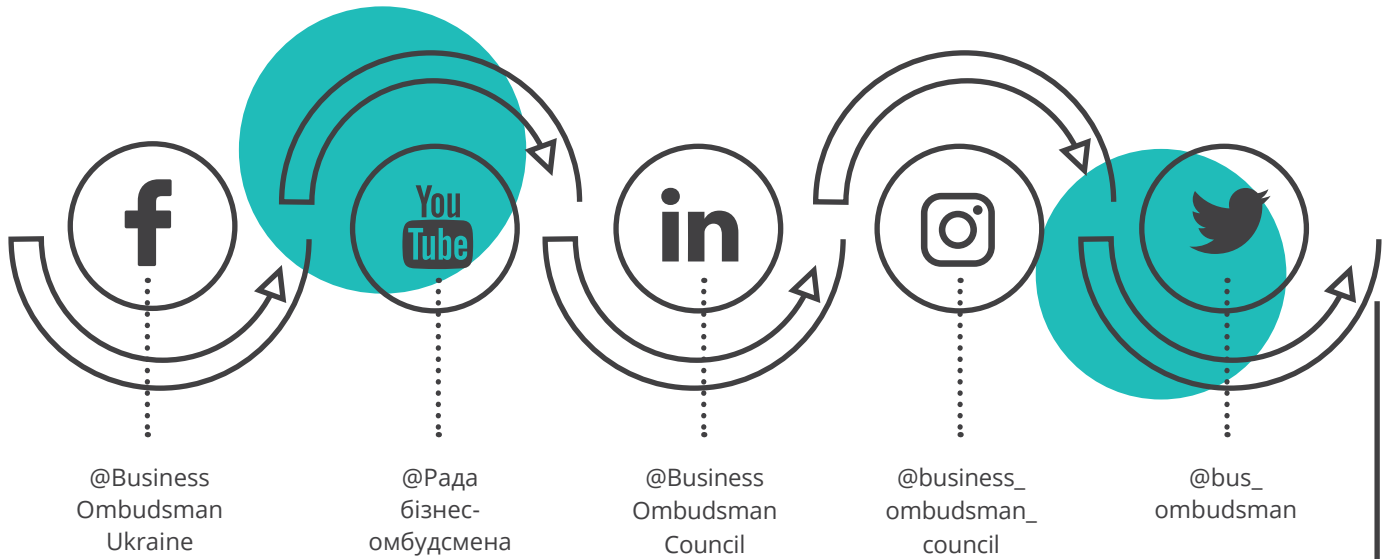


18/12
 Meeting of the Ukrainian Advocates' Association Committee on Protection of Business, Assets and Investors' Rights



18/12
 How to catch up 2020: opportunities vs challenges. What we can achieve together, organized by the Swedish Business Association in Ukraine

Social media



1 Showcase successful stories. Take lessons from unsuccessful ones.



2 Communicate systemic business issues. Suggest possible solutions.



What we do in social media:

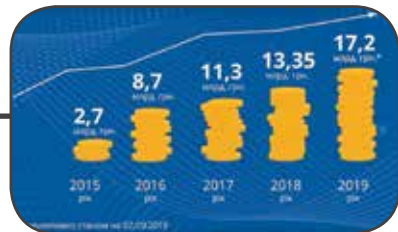
3 Post important news. Share thoughts and views.



4 Produce our own content. Capture videos.



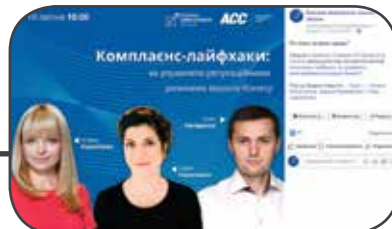
5 Visualize things, prefer infographics.



6 Share our articles, columns and other useful content.

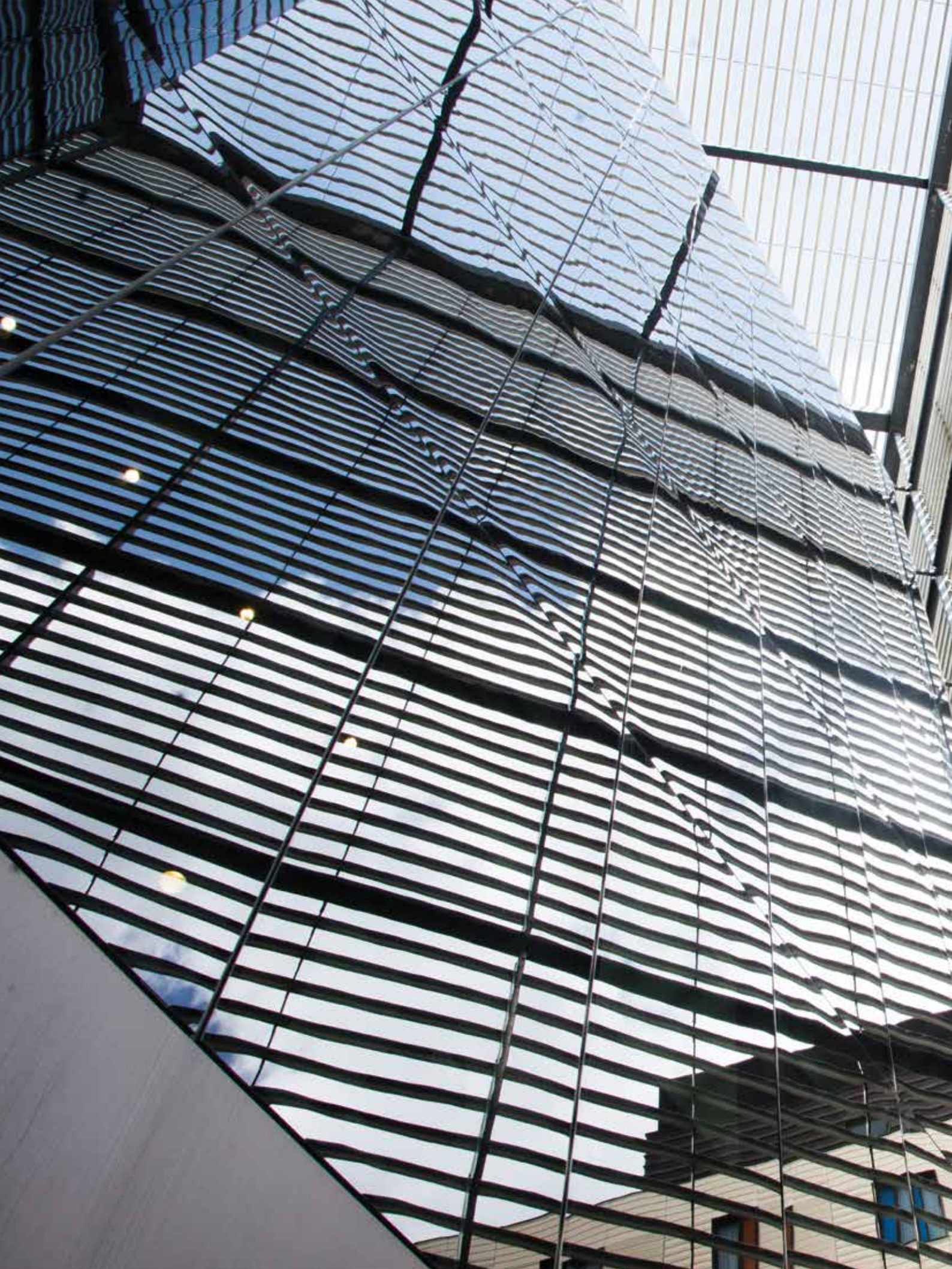


7 Announce our events. Livestream them.



8 Communicate with followers. Swiftly respond to their questions.







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