



October 1 – December 31, 2024

Quarterly report

Q4 2024

Report focus:

Business problems
in the energy sphere



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The abbreviations “BOC” and the “Council” are used interchangeably throughout the text of the report to refer to the Business Ombudsman Council.

The companies mentioned in the report gave permission to disclose their names.



European Bank
for Reconstruction and Development

The Business Ombudsman Council is financed by the EU and from the Ukraine Stabilization and Sustainable Growth Multi-Donor Account (MDA) managed by the EBRD.



Austria



the Netherlands



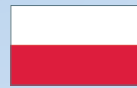
Denmark



Norway



Finland



Poland



France



Sweden



Germany



Switzerland



Italy



the United Kingdom



Japan



the United States



Latvia



**Roman
Waschuk,**
Business
Ombudsman

Foreword

Wrapping up the fourth quarter of my third year as a wartime Business Ombudsman, I continue to marvel at the sheer resilience: of Ukrainian business (whether domestic or foreign-owned), of Ukrainian government institutions that keep ticking over (while still ticking European integration legislative and regulatory boxes), and of our own BOC team, which keeps processing cases despite sleepless nights (while finding the energy to renew and evolve).

Over the course of this quarter, we've visited companies ranging from export-oriented factories, through defence technology R&D facilities, to relocated family bookstores. All are determined to thrive, and only wish that less of their time and energy was sucked up by tax, customs and regulatory issues. We'd already solved problems for most of our hosts, and hope that our systemic advocacy will help pre-empt repeat abuses and complaints.

At the very end of the quarter, in late December 2024, major change came to the State Tax Service, the source and cause of nearly two-thirds of our caseload. New management opens the prospect of a new look at longstanding issues such as the disruptively time-consuming VAT SMKOR system and fiscally ineffective yet burdensome tax audit cycle. One would also hope that recent worthwhile initiatives launched by previous STS management in areas such as risk management and rewarding compliance survive the transition.

Our new Policy and Recovery team surveyed international business sentiment and practical concerns at the Rebuild Ukraine conference and trade show in Warsaw in November. We now have a representative sample of both Ukrainian and foreign businesses who are either already involved in rebuilding projects or actively considering entering the market. Applying our usual fact-based, practical approach, this survey will help inform the initial reports on Critical Infrastructure and market entry conditions that we will be presenting in the first quarter of 2025.

In Ternopil oblast, we found regional and municipal leaders who quite literally signed up to our vision of good governance vis-à-vis business and citizens: Ternopil Oblast Administration Head Vyacheslav Nehoda and Chortkiv Mayor Volodymyr Shmatko are the first signatories of our OECD and EU-inspired Declaration of Fair and Reasonable Administration. I hope that they'll be the first of many.

Internally at BOC, we've kicked up the pace of recruiting to ensure that we have the bench strength to meet client and stakeholder expectations. Despite a more challenging HR environment shaped by brain drain and mobilization concerns, Supervisory Board support and donor understanding have allowed us to attract some top-flight talent. We are thus well equipped for whatever 2025 can throw at us.

Roman Waschuk

Q4 2024 in review

1.1 Key performance indicators

Closed

167
cases

In October-December
2024, the Business
Ombudsman Council
received

269
complaints

Investigation
ongoing of

82
cases

The financial effect
in Q4 2024 reached

UAH
1.6
bn

The total
financial effect
amounted to

UAH
27.4
bn

In Q4 2024,
complainants'
satisfaction level with
BOC services was

100%

Based on responses
received in the
feedback form

TOP-3 subjects of appeals

Tax issues

172

64%

Actions of law enforcement bodies

29

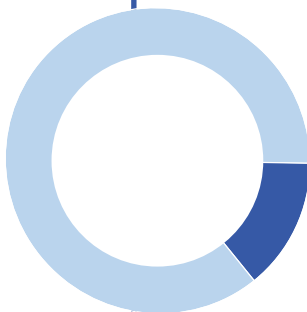
11%

10

4%

Customs issues

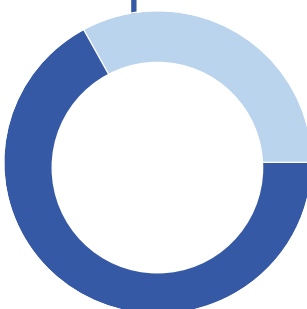
Origin of capital



231 | 86%
Ukrainian companies

38 | 14%
Foreign companies

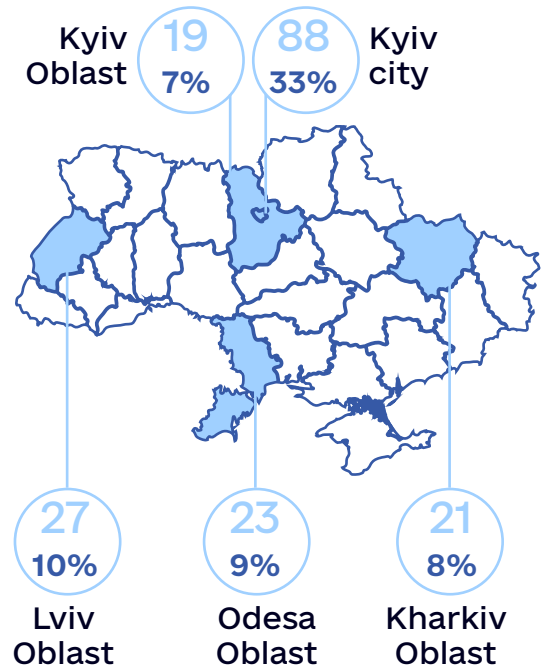
Size of business



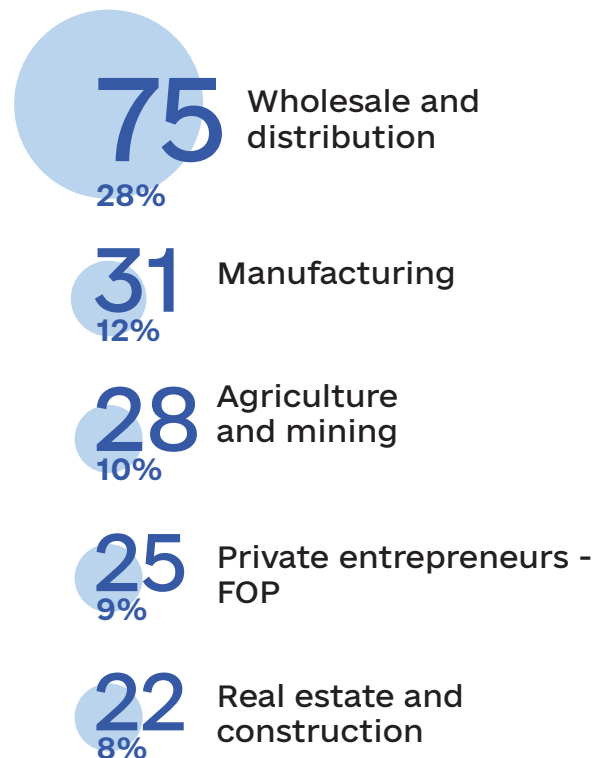
90 | 33%
Large business

179 | 67%
Small and medium-sized business

TOP-5 most active regions



TOP 5 industries



1.2 Volume and complaints trends

Tax issues

172	
52	Tax audits
47	Non-enforcement of court decisions on tax invoices registration
23	Systemic VAT invoice suspension
20	Inclusion in risky taxpayers' lists
3	VAT refund
2	Tax termination/renewal/refusal of VAT payers registration
25	Tax other

29 Actions of law enforcement bodies

11	Bureau of Economic Security (BEB)
4	National Police – procedural abuses
3	Prosecutor's Office – procedural abuses
3	Prosecutor's Office inactivity
2	Prosecutor's Office bodies other
2	National Police other
1	Security Service of Ukraine – procedural abuses
1	National Police – criminal case initiated
1	State Bureau of Investigation of Ukraine
1	State Border Service

20 Actions of state regulators

18	State regulators other
1	Antimonopoly Committee of Ukraine
1	NBU licenses

10 Customs issues

4	Customs valuation
4	Customs clearance delay/refusal
1	Customs inspections
1	Decision to change the UCG FEA code

Actions of local government authorities

10	
7	Local councils/municipalities other
2	Local councils/municipalities – land plots
1	Local councils/municipalities – rules and permits



Tax issues

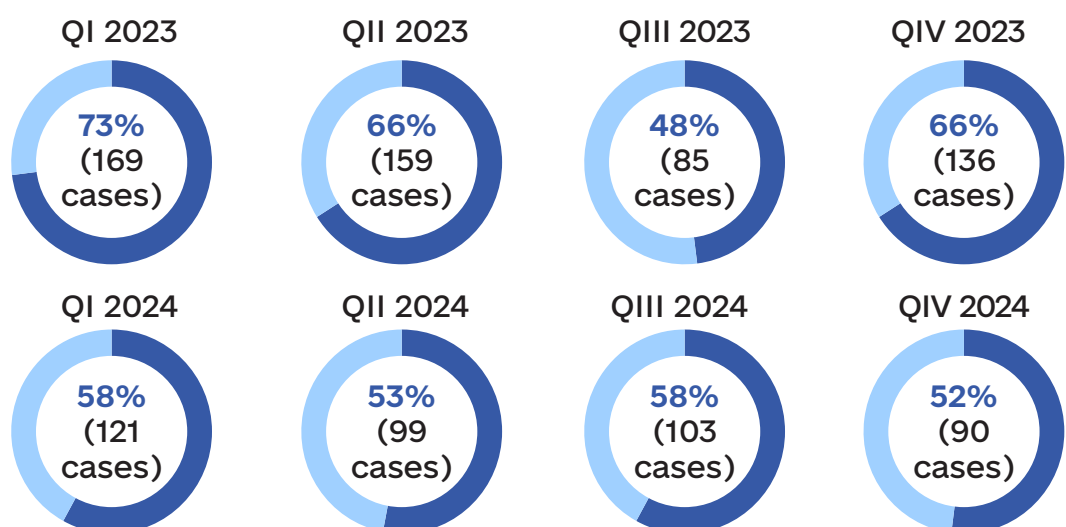
During October-December 2024, tax issues accounted for 64% of complaints (172 appeals) to the Business Ombudsman Council. It is 34 complaints less as compared to the same quarter of 2023 and 7 complaints more than in Q3 2024. Tax issues traditionally top the ranking of 3 biggest problems of entrepreneurs and their number remains approximately at the same level from quarter to quarter.

In Q4 2024, tax audits made up 30% (52 complaints) of total tax appeals, having increased by 13 appeals as compared to the previous quarter.

Considering tax audits resuming and their growing number in early 2024, the Council held a dedicated own-initiative investigation. The Council presented its results in Q2 2024. In a specialized report, the Council shared a number of ideas that can positively affect tax inspections effectiveness and facilitate building partner relations between business and the state.

At the same time, in the reporting quarter a trend towards a drop in SMKOR-related complaints (tax invoices suspension, non-enforcement of court decisions on tax invoices registration and inclusion in risky payers' lists) took effect – their number accounted for 52% (90 appeals) of “tax” complaints (compared to 103 complaints in Q3 2024 and 136 complaints in Q4 2023).

Despite the fact that the VAT administration system still remains a problem for a significant number of entrepreneurs, the Council observes improvement of the system functioning and partial implementation of recommendations issued in the report based on own-initiative investigation results. For more about progress on SMKOR, see pp. 13-15 of this quarterly report.



Other tax issues of the quarter included VAT related problems. They concerned tax requirements appeals of tax debt payments/ repayments, wholesale licenses cancellation, fuel trade, information correction in the taxpayer's integrated card, single tax payer registration renewal.



Actions of law enforcement bodies

In the reporting quarter, business complaints about law enforcement bodies reached 11% (29 complaints). It is 12 complaints less than in Q3 2024, 3 complaints (32 appeals) less compared to Q2 2024 and 19 complaints (48 appeals) less than in the same quarter last year.

Complaints about law enforcers go second in the BOC general business appeals structure.

During October-December 2024, the Council considered complaints about procedural abuse and inactivity of the Prosecutor's Office and the National Police, which, inter alia, concerned non-return of seized property after its arrest cancellation, pre-trial investigation ineffectiveness, as well as ungrounded criminal persecution of entrepreneurs.

Like last quarter, the Council received 11 complaints about the Bureau of Economic Security (BEB). The Council had mandate to process only one of complaints received. The case was completed successfully with the return of temporarily seized property.

In December 2024, the Selection Commission announced a competition for the position of BEB director. BEB relaunch is implementing the same name draft law adopted by the Verkhovna Rada in the summer of 2024. The Council supports the Bureau reforming, taking into account business community and international experts requirements advocating for the earliest possible BEB composition refresh and economic crime modern analytical investigation methods implementation.



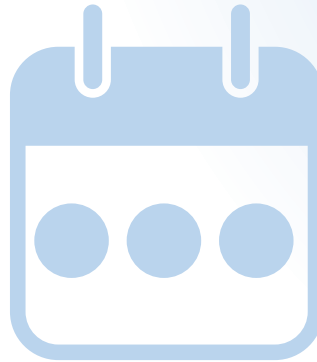
Customs issues

In Q4, a downward trend in the number of customs-related complaints preserved. If in Q3 2024, their number was 16 or 6% of total complaints, then in the final quarter of 2024, the Council received only 10 complaints about customs (4%). The quantity of complaints compared to the same quarter of 2023 (32 complaints, which made up 9% of the general volume of complaints) also decreased. Traditionally, a significant part of appeals on customs dealt with customs value adjustment of goods and problems with customs registration – 8 appeals. The business also turned to the Council regarding reclassification of imported goods by customs authorities.

The Council supports companies in customs decisions administrative appeal, as well as helps companies settle customs issues, holds Expert group meetings with the State Customs Service.

1.3 Timelines of preliminary review of complaints

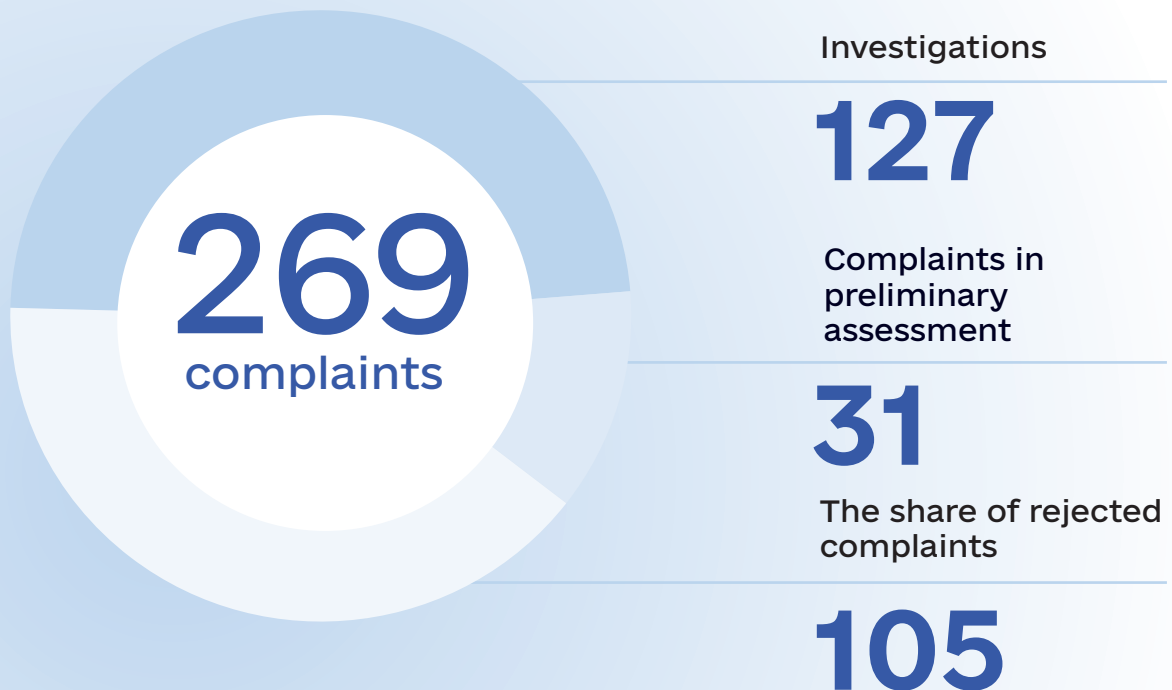
In Q4 2024, preliminary review of business complaints took an average of



We managed to meet the regulations of our Rules of Procedure – 10 working days.

1.4 Number of investigations conducted and grounds for dismissing complaints

In Q4 2024, out of 269 complaints, BOC conducted 127 investigations. 31 complaints remained at the preliminary assessment stage. The Council rejected 105 appeals as not fitting the Council's eligibility criteria foreseen by the institution's Rules of Procedure.



1.5 Main reasons for complaints dismissal in Q4 2024

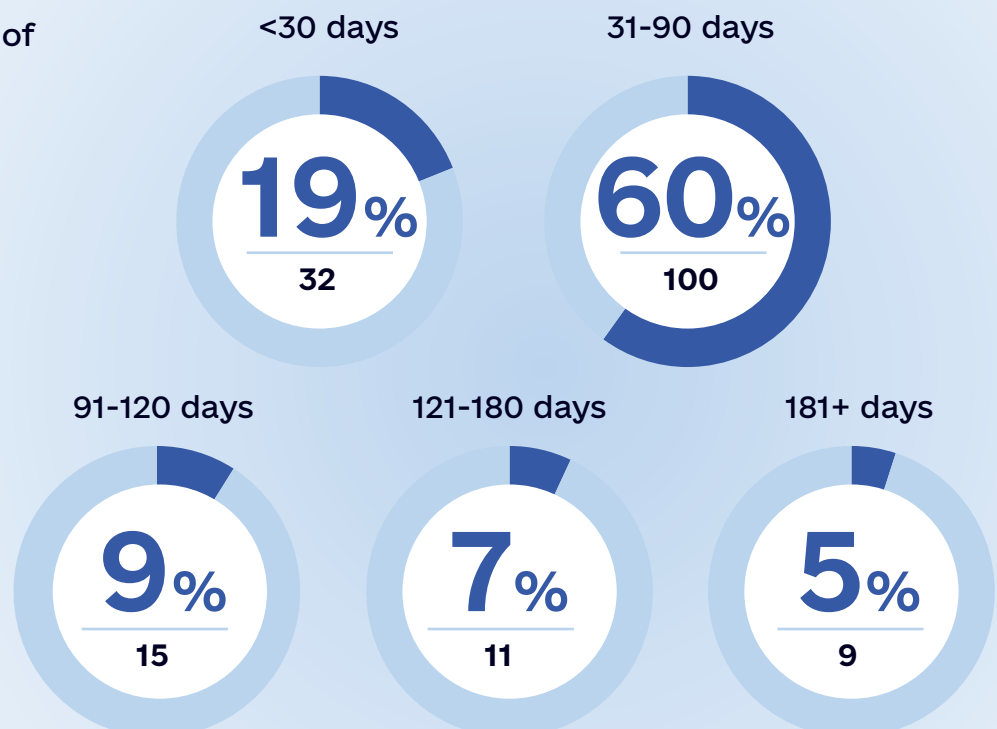
57	Subject of the complaint is outside Business Ombudsman's competence
16	The complaint is ungrounded or other bodies/institutions already consider such a case
14	According to the Business Ombudsman, the Complainant did not provide sufficient cooperation
5	Other circumstances where the Business Ombudsman, in his sole discretion, determines that an investigation of the complaint is not necessary
4	A complaint filed to the Council again after a decision was made to leave it without consideration, except when the complainant provides really new circumstances, or facts, or substantial evidence
3	The complaint was withdrawn by the complainant
2	Complaints subject to any court or arbitral proceedings, or in respect of which a court, arbitral or similar type of decision was made
2	An investigation of a similar case by the Business Ombudsman is pending or otherwise ongoing
1	The party affected by the alleged business malpractice has not exhausted at least one instance of an administrative appeal process available under the current legislation
1	A complaint relates to an issue that has already been addressed by the Business Ombudsman
105	Total

1.6 Timelines of conducting investigations

The average duration of investigations was

73 days

In Q4, we met the 90-day deadline stipulated by the Council's Rules of Procedure.



79% of all closed investigations within 90 days in Q4 2024 are in compliance with the BOC Rules of Procedure.

1.7 Geography of complaints

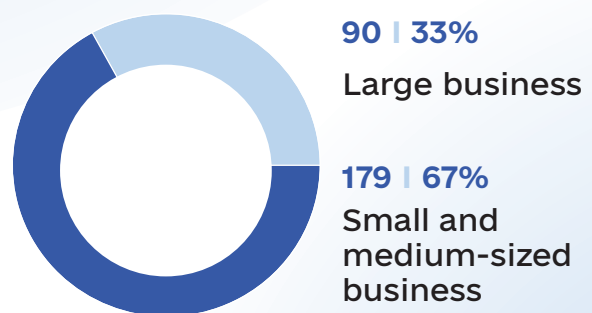


Origin of capital



In the reporting quarter, Ukrainian companies lodged 86% of complaints with the Council. The share of complaints from foreign businesses was only 14%.

Business size



In the fourth quarter, complainants from small and medium-sized businesses made up 67%, while appeals from large companies accounted for 33%.

2 Problems in the VAT system:



monitoring implementation of recommendations by state bodies based on our own-initiative investigation results

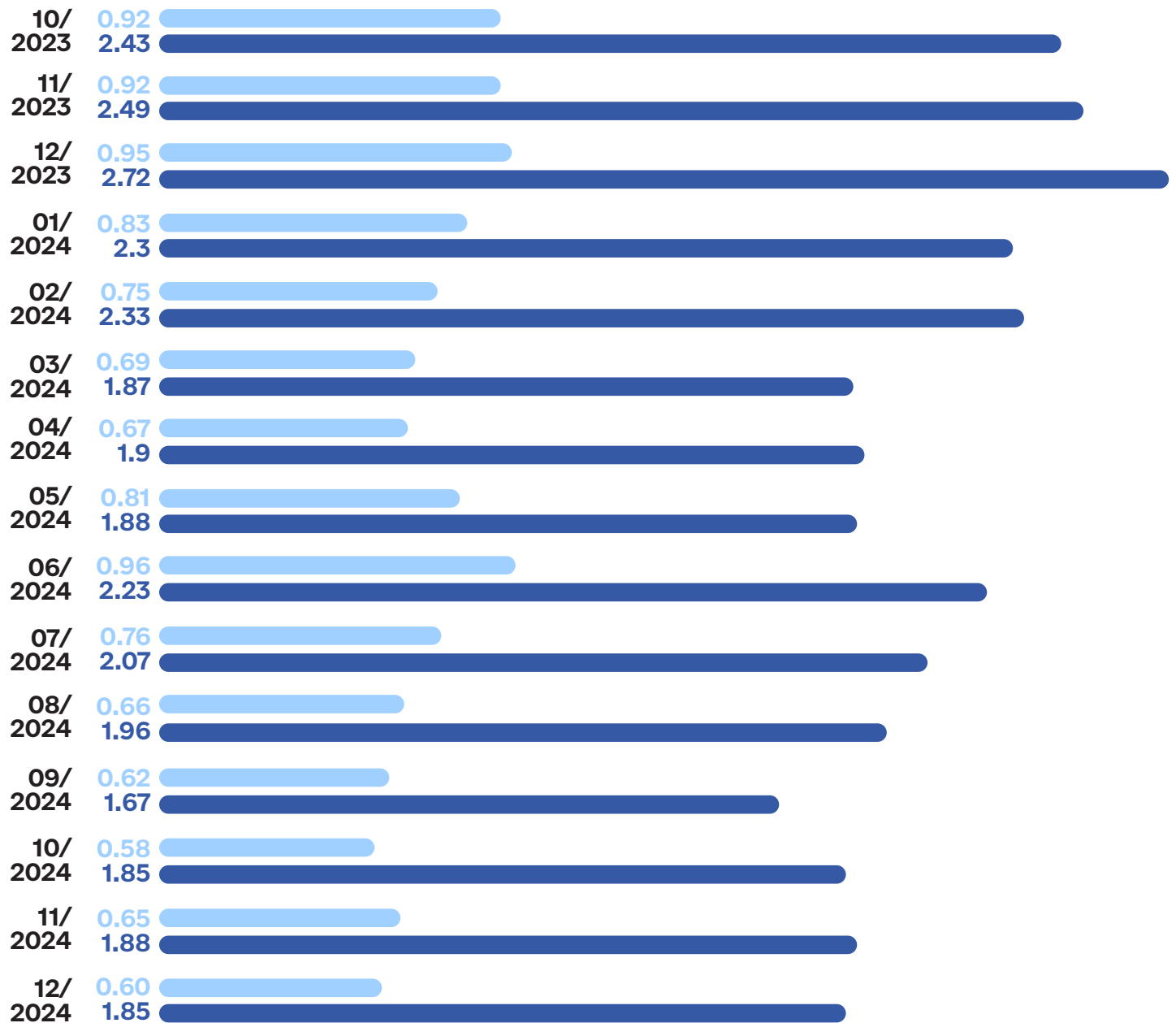
The Business Ombudsman Council's first own-initiative investigation into VAT system problems not only allowed to elevate the situation of abnormal massive tax invoices suspension to a nationwide level, but also to start a dialogue with the state regarding its settlement.

The Council keeps a close eye on changes in the VAT system and periodically meets with the Ministry of Finance and the State Tax Service to discuss opportunities of eliminating shortcomings in the SMKOR and ways of understanding among fiscal bodies with business.

Since the release of the report on SMKOR, the Council has noted important changes in the system:

- Administrative appeal of decisions on riskiness of a taxpayer and refusal to accept data tables introduced (a BOC recommendation issued in 2019 taken into account)
- Analysis and legislative changes forecasting functions improved which contributed to decreasing the number of tax invoice suspensions
- The Verkhovna Rada of Ukraine involved in getting feedback on business proposals
- The form of decisions on taxpayers' riskiness and non-acceptance of data tables improved
- Period during which transactions are taken into account when considering riskiness of the taxpayer limited to 180 days
- Positive tax history indicators list expanded
- Work on the taxpayer's profile started
- Regional communication platforms and "hot lines" for taxpayers and public organizations created

Dynamics of TIs/ACs registration suspensions and blocked VAT amounts

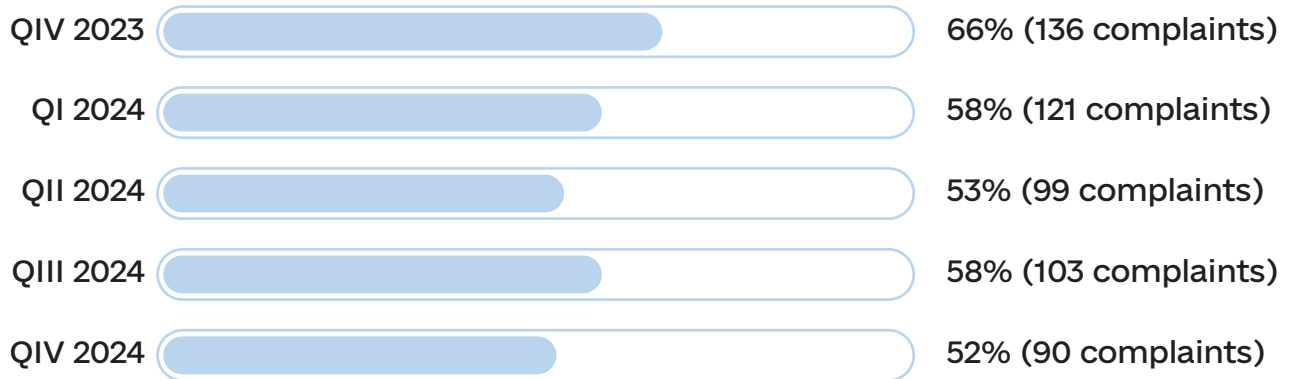


Percentage of TIs/ACs suspended in SMKOR
 Percentage of blocked VAT amount

Having analyzed statistics received from the State Tax Service, the Council observes downward trends in tax invoices suspension: after a surge to 0.96% in June, the number of suspensions gradually decreased to 0.60 % in December 2024. Such indicators show invoices registration improvement, particularly if compared with the period of BOC's conducting its SMKOR investigation. In Q4 2024, about 9.6% of payers faced tax invoices registration suspension (which is lower than in 2022, when about 20-30% of payers encountered suspensions), but slightly more than in June 2024 (8.74 %).

However, the situation with blocked VAT amount looks changeable: with quarterly fluctuations during the current year, the blocked VAT amount of 2.23% in June decreased to 1.67% in September 2024, but grew again to almost 1.9% in Q4 2024.

If we consider BOC business complaints statistics, then the number of complaints about SMKOR issues is consistently in the TOP-3 tax complaints list – 52% this time in Q4 2024.



The Council calls on the Ministry of Finance and the State Tax Service to pay attention to SMKOR report recommendations being of importance for improving the system:

- 1** Intermediate stages before applying adverse consequences to payers
- 2** Riskiness of the payer: transparency, proportionality, effectiveness of procedures
- 3** Administrative practice adjustment, taking into account court decisions
- 4** Key indicators data availability
- 5** A balanced attitude towards payers and compliance with good governance principles

Putting the aforementioned changes into practice will help improve business confidence level in the tax authorities, as well as establish communication with payers not only to settle, but also to prevent possible controversial situations.

3 Examples of closed cases

An Automotive Tires Distributor Clears Goods at the Declared Customs Value

An importer and distributor of truck tires regularly encountered questions from customs authorities during clearance of goods, which led to adjustments in the customs value of a significant number of shipments.

Customs authorities adjusted the customs value of imported tires, citing the lack of information on insurance costs during transportation, purchase orders for goods delivery, as well as the disproportionate allocation of transportation costs for shipping abroad and within Ukraine.

The company appealed the decision to adjust the customs value to the State Customs Service of Ukraine (SCSU) and approached the Business Ombudsman Council (the Council).

The Council supported the company and reached out to the State Customs Service and also joined consideration of the company's complaints with the participation of regional customs and the company.

Additionally, the Council raised the issue of systematic adjustment of the customs value of the company's imported goods during one of the regular meetings between the Council and the SCSU within the framework of the Expert Group.

Thanks to the Council's efforts, it was possible to review the existing decisions on adjusting the company's goods customs value towards its reduction, as well as to resolve the issue of clearing subsequent shipments and have goods cleared at the customs value declared by the company.



Viral “Riskiness” – a Glass Distributor Case

The tax authority classified a company trading in glass as a high-risk taxpayer. The reason was the accumulation of unsold leftover goods and the riskiness of a counterparty.

The enterprise followed the tax authorities’ recommendation and submitted additional documents and explanations, which confirmed the absence of significant unsold goods inventories and that the existing inventory was already contracted for further resale and profit generation. However, the tax authority refused to consider the submitted documents, again citing the risky counterparty.

During the complaint review process, the Business Ombudsman Council consulted the company on preparing explanations to eliminate the tax authority’s concerns. Throughout August – October 2024, the Council raised the complaint for discussion of the Expert Group with the Main Department of the State Tax Service in Kyiv and the State Tax Service of Ukraine. During this period, the complainant’s counterparty (whose complaint was also supported by the Council) lost its risky status.

The persistent efforts of the Council and the complainant led to a positive resolution of the case. On October 25, the company informed the Council that the tax authority had excluded it from the risky taxpayers’ list.

Overcoming Tax Barriers: Successful Resolution of a Company’s Risky Status Problem

A company with foreign investments operating in the renewable energy sector approached the Business Ombudsman Council. Since 2018, it has been leasing equipment for solar power plants.

In June 2023, the Kyiv city tax authority included the enterprise in the risky taxpayers’ list. The reason was an insufficient number of employees to perform the declared operations. Immediately after that, the company provided detailed explanations and a package of documents confirming the availability of adequate material and labor resources, as well as the execution of business operations. However, despite the submitted documents, the tax authority focused on the low tax burden, which led to keeping the enterprise in the risky taxpayers’ list.

To resolve the situation, the enterprise turned to the Business Ombudsman Council. The Council organized several meetings within the framework of an Expert Group during August-September 2024, engaging representatives of tax authorities. During these discussions, the tax authority explained that to change the company’s status, it was necessary to increase the technical department’s staff and provide a plan for VAT payment.

The enterprise promptly implemented these recommendations: in September 2024, it hired two new employees and stated that it would pay VAT from February 2025. Additionally, the tax authority made specific comments on another enterprise associated with this company and its business operations. With the Council's support, the company collected the necessary documents confirming the authenticity of such operations. As a result, on October 17, 2024, the tax authority removed the risky status from the company. Simultaneously, tax invoices totaling over UAH 2 mn were unblocked.

Refund of Overpaid Customs Payments: a Case of Successful Business Rights Protection

A company engaged in importing goods received six decisions from the Volyn Customs Office regarding the adjustment of goods' customs value, totaling almost UAH 1 mn. The company twice filed applications for the refund of overpaid customs payments. The first time, in June 2024, the customs office refused to refund, arguing that the company had a tax debt. In August 2024, the enterprise submitted an application again, adding a certificate confirming no tax arrears, but there was no refund.

Earlier, the company had consistently challenged each of the customs office's decisions in court. At the end of November 2023, the court declared these decisions illegal and canceled them. However, the customs authorities delayed returning the overpaid funds.

After a long wait, the company turned to the Business Ombudsman Council. The Council thoroughly studied the case materials and prepared written appeals to the customs office. In September 2024, the Council's investigators sent a letter to the customs service, emphasizing the need to comply with current legislation.

As a result, the customs office finally initiated the refunding process and sent conclusions to the State Treasury for UAH 217k. In September 2024, the company confirmed crediting of these funds to its account.

The Tax Office Successfully Cancels UAH 39 mn of Additional Payments Charged to a Company

Based on the results of a scheduled inspection, the tax authority additionally accrued UAH 39 mn in taxes and penalties for a company, which dealt with liquefied hydrocarbon gas transportation.

During the inspection, the tax authorities' main questions concerned the accuracy of tax accounting for railway wagon repair expenses. The company classified

such expenses as current expenses, while the tax authorities insisted on gradually attributing repairs to expenses through depreciation of these costs.

The tax authorities also had questions about the company's operations of purchasing materials for constructing an access railway track already in use, due to claims against suppliers.

Additionally, the tax authorities concluded that the company had delayed registering adjustment calculations to tax invoices received from contractors.

The company filed a complaint with the State Tax Service of Ukraine (STS) with detailed argumentation, based on international accounting standards, Supreme Court case law, and results of previous inspections.

The company also engaged the Business Ombudsman Council to assist with the appeal process. The Council analyzed the case materials, prepared and sent an official letter to the STS supporting the company's position and participated in the appeal review process alongside the company.

As a result of the administrative appeal, the STS cancelled nearly the entire UAH 39 mn of additional payments.



Restoring Reputation: How an Agricultural Distributor Overcomes a Risky Taxpayer's Status

In June 2024, an agricultural products distributor received a tax authority decision including it in the risky taxpayers' list. Tax officials claimed the company lacked sufficient conditions for conducting business operations and did not have warehouse facilities for proper storage of product remains.

The enterprise disagreed with this decision and decided to appeal it. In August 2024, the company sought assistance from the Business Ombudsman Council.

During August and September 2024, the Council organized a case review with the tax authority within the framework of the Expert Group. The meeting addressed issues related to the company's material and technical facilities and its operating conditions. In September 2024, the tax authority informed the Council about the company's cooperation with two contractors considered risky. Tax officials indicated that the enterprise should refuse tax credit for transactions with these counterparties. However, the company had already done so. It provided documents confirming this step, including VAT declarations and relevant tax invoices.

Thanks to the Council's active support, in October 2024, the tax authority removed the company from the risky taxpayers' list.

Report Focus:

Business problems in the energy sector

Ukraine's energy sector is a strategic and critically important sector of the economy ensuring not only the livelihood of the population, but also supporting the country's defence capabilities.

On the one hand, provisioning energy resources is important for continued functioning of enterprises in energy-capacious industries (metallurgy, chemical industry, mechanical engineering) and critical infrastructure. On the other hand, a stable supply of energy resources for the needs of the Defence Forces of Ukraine increases the state's capabilities to effectively resist the Russian enemy.

Russia's full-scale invasion of Ukraine has become a real challenge for the Ukrainian energy sector. According to public estimates, Ukraine has lost over 40 GW of electricity generation since February 2022 that, in turn, has acutely raised the issue of energy resources diversification and decentralization.

To help the energy sector address problems arising during interaction with state bodies and accelerate Ukraine's integration with the European energy market, the Business Ombudsman Council has been paying constant attention to appeals of entrepreneurs in this area since the first days of its operations. Such appeals cover tax, law enforcement, permits and other issues.

During its entire operation, the Council received 181 complaints from energy companies, of which it closed 113 cases. The Council closed 65 cases or 58% with a positive outcome for the complainants. The financial effect, in turn, reached UAH 4 bn.

Examples of successfully resolved energy-related cases

2016

Wind park developer gets permit for land development documentation

The State Geocadaastre Service in Zaporizhia Oblast refused to grant permit to develop a land management project for the land plot allocation. The situation was not resolved for almost a year.

The Council sent a letter to the Head of the State Geocadaastre and the responsible Vice Prime Minister with a recommendation to ensure an objective consideration of the complainant's appeal. The Business Ombudsman also personally discussed the issue of land acquisition during a meeting with the Head of Zaporizhzhia Regional State Administration during a visit to the region. As a result, the company received the required permit.

2018

Alternative electricity producer's VAT registration restored

A Lviv-based company could not renew its VAT registration for two years.

The Administrative Court overturned the tax authority's decision and ordered to renew the VAT payer's registration. However, the District United State Tax Administration was in no hurry to restore the enterprise's tax status, did not execute the court decision, and did not respond to the enterprise's appeal.

Based on the Council's written appeal consideration results, the State Fiscal Service complied with the court decision and renewed the complainant's VAT payer registration.

2019

The tax office registers invoices for a solar panel manufacturer worth UAH 14.5 mn

The tax office did not comply with the court decision on registration of the company's tax invoices for almost UAH 15 mn for a long time. It turned out that back in the spring of 2019, the territorial department of the State Tax Service included the company in the risky VAT payers list. The company managed to prove its non-riskiness. The court also satisfied the complainant's claim and obliged the State Tax Service to register the invoices, but the tax office did not execute the court decision.

The Council communicated with the tax office and filed a complaint for consideration by the Expert Group of the State Tax Service of the Republic of Belarus. At the end of December 2020, the complainant managed to establish judicial control over the implementation of this decision. In particular, the State Tax Service was obliged to submit a report on the implementation of this decision to the court within 30 days after receiving the relevant resolution.

As a result, the State Tax Service registered the enterprise's tax invoice.

2021

DABI issues permits for solar power plants construction in Zhytomyr Oblast

The company planned to install five power plants in Novohrad-Volynskyi district of Zhytomyr Oblast with a total capacity of 5 MW. To do this, DABI had to issue 5 separate permits to start construction. The complainant submitted documents through “DIIA” public services portal. However, he received remarks from the controlling body due to non-compliance of documents with the Ukrainian legislation. According to DABI, the company’s conclusion regarding the consequences of the construction, as well as the names of facilities did not correspond to those specified in the design documentation. The company corrected all the deficiencies and re-applied to DABI. This time, the inspectorate found other arguments to deny giving permits to the company to build solar power plants. The DABI referred to the fact that the design documentation was inconsistent with the town-planning conditions and restrictions.

During the investigation, the Council found out that the inspectorate did not provide the company with an exhaustive list of comments from the very beginning, and each time after the company’s appeals it found new deficiencies in the documents.

After the BOC intervention, DABI issued the company permits to build solar power plants in Zhytomyr Oblast.

2022

GarPok returns UAH 3 bn of “green” debt to the complainant

The State Enterprise “Garantovanyi pokupets” (GarPok) did not pay the group a proportional share of the debt at the “green” tariff for electricity they had sold in 2020-2021.

As of the end of 2021, the debt amount accumulated by GarPok to the complainant was UAH 28.5 bn, of which UAH 4.4 bn was unpaid funds to the complainant. GarPok began repaying its debt thanks to “green” bonds issued by the Government (in the amount of UAH 22.8 bn). However, funds from GarPok were received by all RES producers, with the exception of 8 companies, 7 of which were the complainant’s companies.

The Council upheld the complainant’s position and sent its legal position to state bodies responsible for resolving the issue.

At the beginning of 2022, it became known that GarPok transferred UAH 3.03 bn in debt to the complainant’s companies using funds received from “green” Eurobonds issue.

2023

The tax authority excludes a foreign investor in the solar energy sector from the risky taxpayers list

In June 2023, the capital's tax office recognized the enterprise as a risky taxpayer. The reason was an insufficient number of employees to perform the declared operations and a low tax burden.

The Council brought up the complaint for discussions within the Expert Group with representatives of tax authorities. During the discussions, it became clear that to change the status, the enterprise had to increase the technical department staff and provide a VAT paying plan.

The company promptly implemented these recommendations: in September 2024 it hired two new employees and also explained that it would start paying VAT from February 2025. With the Council's facilitation, the company also collected the necessary documents confirming the reality of transactions with the counterparty. Thanks to this, in the fall of 2024, the tax office cancelled the company's risk status. Tax invoices worth over UAH 2 mn were also unblocked.

2024

The Ministry of Economy extends delivery deadlines for equipment to the company building a wind farm in Ukraine

A Turkish investor ordered turbine generators components from Germany to construct a wind power plant in Lviv Oblast.

The company managed to pay and import part of the ordered equipment to Ukraine in 2021. It expected to deliver the rest of the equipment by May 2022. However, due to the Russian Federation full-scale invasion of Ukraine, the wind farm construction project was suspended.

To avoid being fined for violating currency legislation, the company had to obtain an opinion from the Ministry of Economy on extending the deadlines for currency settlements. However, the Ministry considered the company's documents for almost two months, instead of the legally established ten business days. As a result, it issued a refusal.

After the Council communicated with the Ministry, the company received a positive opinion, which gave the right to import the remaining paid equipment until the end of 2025.

2024-2025: work on the case is ongoing

The right to solar power plants component depreciation

The constant attacks of the Russian Federation on Ukraine's energy system and a considerable part of energy generating capacities loss have acutely posed the issue of reviewing approaches to future transformation of the energy sector of Ukraine, particularly renewable energy facilities development.

According to the National Renewable Energy Action Plan until 2030, approved by the Cabinet of Ministers of Ukraine Resolution No. 761-p dated August 13, 2024 (**National Action Plan**), as a result of the Russian Federation's invasion of the territory of Ukraine, about 25% of renewable energy installed capacity was occupied. The situation with wind power plants is especially difficult – 75% or about 1.25 GW of them are located in the occupied territories of Kherson and Zaporizhzhia Oblasts. Besides, about 14% of solar power plants are under occupation – over 0.6 GW.

Despite such significant losses, the National Action Plan envisages that the share of energy produced from renewable sources in the structure of gross final energy consumption should grow to 27% by 2030. Achieving this goal requires active state support and private investment stimulation.

The Council tried to figure out whether such support is sufficiently coordinated between different departments and whether the current regulatory framework creates predictable market conditions for investors, by handling the case on solar power plants depreciation.

At the end of 2024, the Council once again received a complaint from businesses regarding tax authorities' practice to treat a solar power plant as a single fixed asset, to which a unified 15-year depreciation period applies, regardless of the useful lives of the equipment included in the power plant. This approach means an increase in the tax base in mid-term by reducing depreciation costs.

The Capital Tax Office conducted inspections of 12 companies of one of the largest international investors in the renewable energy sector of Ukraine, whose solar and wind power plants total capacity is 635 MW. In the inspection reports, the State Tax Service concluded that the companies calculated depreciation in violation of the norms of the Tax Code of Ukraine (TCU), since they divided solar power plants into separate fixed assets and attributed them to different groups defined in sub-para 138.3.3 of para 138.3 of Art. 138 of the TCU.

The Council disagreed with this conclusion and supported companies in the administrative appeal process, since according to clause 4 of the National Accounting Regulation (Standard) 7 "Fixed Assets", **if one fixed asset consists of parts having different useful lives (service lives), then each of these parts may be recognized in accounting as a separate fixed asset.** The verb "may" means that the payer has the right to choose between options at its own discretion, each of which is lawful. Given the fact solar power plant components have different useful lives, and the State Tax Service did not prove that the term determined by the payer should be different, the Council concluded that additional charges were ungrounded.

This approach is supported by the currently limited case-law. In particular, in the case of another company from the complainant's group, which the Council considered back in 2021, the courts of first and appellate instance rejected the tax authority's position and cancelled millions in additional tax assessments.

The possibility of different interpretations of the rights and obligations of solar power plant owners makes the Ukrainian market conditions unpredictable for foreign investors who, when entering the Ukrainian market

in 2019, could count on component approach application to fixed assets depreciation. However, 5 years after the investment project implementation, one learned that such an approach contradicts the vision of the tax authority, notwithstanding the fact that there were no regulatory restrictions or official explanations regarding application of the component approach to depreciation.

The Council believes the solar power plants depreciation issue is a matter of state policy, since the possibility of component depreciation and reduced operating periods is, in fact, a tax incentive and may influence investors' decisions to enter the Ukrainian market.

To develop a unified approach to the solar power plants depreciation issue, the Council brought together state bodies and businesses. The Council engaged the Ministry of Energy, the Ministry of Finance, the State Tax Service, industry and business associations representatives (particularly, the Ukrainian League of Industrialists and Entrepreneurs, the American Chamber of Commerce in Ukraine, the European Business Association, the European-Ukrainian Energy Agency, and the Solar Energy Association of Ukraine) in the discussion.

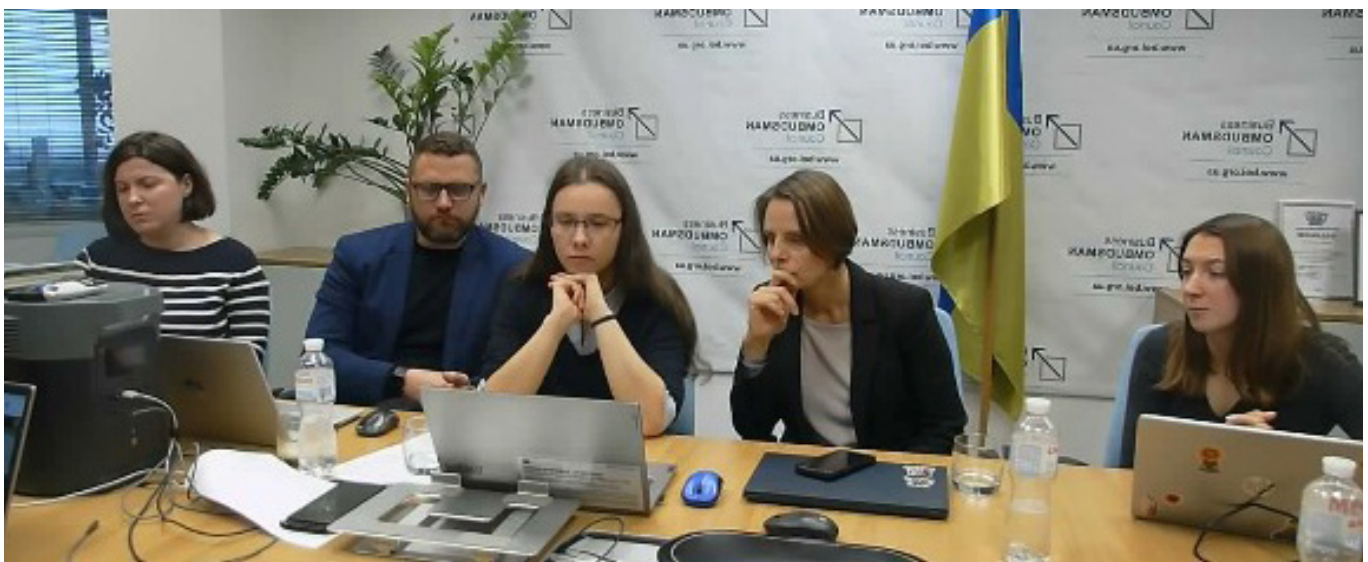
At the event, business representatives emphasized that the tax authorities' approach was incorrect, since accounting rules directly provide for the right to separate fixed assets parts depreciation provided they had different service lives. The component approach

allows for a more accurate accounting of the solar power plant main parts depreciation.

The Ministry of Energy representative supported the business position, emphasizing the strategic importance of creating favourable conditions for investors in this area. The representative of the Ministry of Finance confirmed the fundamental possibility of component depreciation, but pointed out objective difficulties in providing explanations regarding national accounting standards application for various industries.

Considering the fact that approaches to law enforcement in this area require systemic changes, the Council coordinated the development by business associations of a draft explanation of solar power plants depreciation rules and, with its own conclusion, submitted it for consideration by the Cabinet of Ministers of Ukraine and relevant ministries.

In the Council's standpoint, such explanations should provide **legal certainty in this area and will contribute to the Ukrainian renewable energy market investment attractiveness. Creating clear, understandable, and predictable rules is crucially important** for the whole country, since the alternative energy industry development, including solar energy, will depend on how successfully Ukraine will be able to cover the generating capacity deficit, prevent increased dependence on external suppliers, and ensure the appropriate energy resources diversification level.



Supporting business in overcoming consequences of the full-scale Russian Federation invasion of Ukraine

Strengthening the private sector of Ukraine now fundamentally determines the way renewal efforts will be taken in the post-war period.

Therefore, the Business Ombudsman Council (BOC) with its mission to protect the business rights and support creating favorable business climate, has launched a new activity direction aimed at supporting business in overcoming the consequences of the military aggression and the EU integration of Ukraine.



Policy & Recovery

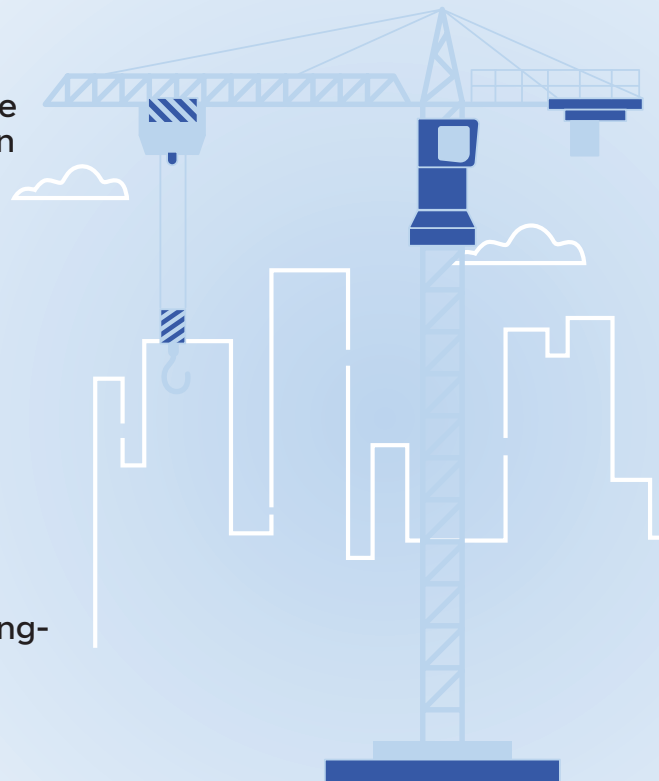
The Council has formed a team that is called Policy&Recovery which includes specialists in the sphere of economic policy, law and engineering sciences. The team is building its work under the leadership of the Deputy Business Ombudsman Tetiana Korotka.

Key tasks:

- 1 Supporting the private sector in overcoming the consequences of the Russian military aggression
- 2 Implementing the renewal projects including critical infrastructure related and creating fair and transparent conditions for the companies' participation
- 3 Attracting investments in the renewal initiatives

In particular, we will focus our activities on:

- 1 Involving the private sector in overcoming the immediate consequences of the war and the long-term recovery of Ukraine
- 2 Managing risks and improving conditions for transparent involvement of the private sector
- 3 Supporting the private sector in the implementation of complex (including infrastructure) projects



During the final quarter of 2024, the Business Ombudsman Council focused its activities on communicating with a wide range of stakeholders, identifying pressing private sector issues in recovery, and setting up operational processes for reviewing business cases related to recovery.



“Ukraine’s economy has undergone significant structural changes, and today we are forced to act proactively in conditions of high turbulence and uncertainty. It is to ensure the country’s economic security, support the private sector during this difficult period, and lay the foundation for long-term recovery that we have created the Policy&Recovery Team,”

Tetiana Korotka
Deputy Business Ombudsman

Contacts with key state stakeholders

Within the framework of the Memorandum of Partnership with the Restoration Agency, a meeting was held between the Head of the State Agency for Restoration and Infrastructure Development of Ukraine, Serhii Sukhomlyn and the Business Ombudsman, Roman Waschuk.



During the meeting, the mechanisms for involving business in renewal projects were discussed. Particular attention was paid to the issues of transparency of tender procedures and expanding access of small and

medium-sized businesses to recovery projects.

Striving to create favorable conditions for doing business on Ukraine's path to the EU, BOC joined negotiation (working) groups within the framework of the

European integration process, particularly on issues of freedom of entrepreneurship and services provision; taxation; entrepreneurship and industrial policy and public administration reform.

The Council has expanded cooperation with the Confederation of Builders of Ukraine.

Representatives of the Council participate in meetings of the Board of Directors of the Confederation of Builders of Ukraine (CBU), working meetings and events where business problems in reconstruction are discussed.



Rebuild Ukraine Conference

In October 2024, the Policy&Recovery team participated in the international exhibition and conference ReBuild Ukraine CONSTRUCTION & ENERGY in Warsaw, Poland.

As part of the conference, the Council's team:

- presented the Council's activities, in particular the Policy&Recovery direction, which is aimed at eliminating current obstacles in the work, supporting and involving the private sector in overcoming the consequences of aggression, implementing renewal projects and creating favorable conditions for attracting investments
- met with companies in the metallurgy and metalworking, energy, construction and sustainable development, financial sector and consulting industries
- met with representatives of development institutions of the German federal district of Brandenburg and the province of Saskatchewan from Canada



Regional visits

In addition, in the reporting quarter, the Council presented the work of the recovery team during visits to Odesa and Lviv.



Consolidating efforts of the Business Ombudsman Council with the stakeholders will allow for maximum support to the private sector in the country's post-war reconstruction and will contribute to the fastest possible economic recovery.



Researching Problems in Recovery

Deploying a new direction of Policy&Recovery, the Council launched a questionnaire “Ukraine at War: Transformation of the Business Environment and Investment Prospects”.

The purpose of the survey is to find out how enterprises assess the current situation on the market, to investigate the readiness of foreign business to invest in Ukraine and the risks and challenges that foreign investors see when entering the Ukrainian market and participating in the immediate recovery.

The Council will present the results of the survey in the next reporting quarter.

The Council will help renewal participants counteract possible abuses by state bodies in the reconstruction of Ukraine, therefore, in case of such problems, it encourages entrepreneurs to file complaints at boi.org.ua



ОПИТУВАЛЬНИК

«Україна у війні:
трансформація
бізнес-середовища
та перспективи
інвестування»

boi.org.ua

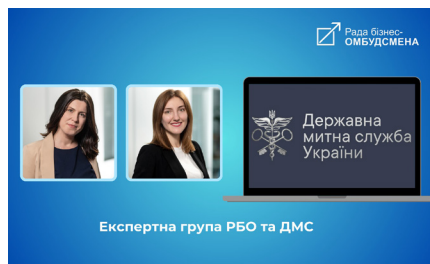


Cooperation with stakeholders

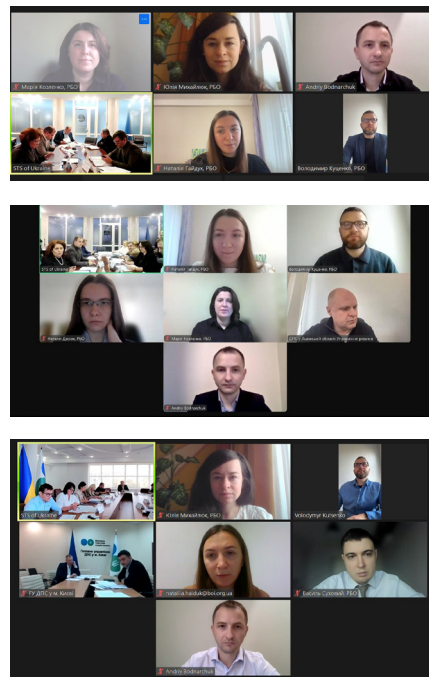
6.1 Expert groups

	Number of meetings in Q4 2024	Number of cases considered in Q4 2024
State Tax Service of Ukraine	3	164
MD STS in Kyiv city	2	7
MD STS in Kyiv Oblast	2	14
Prosecutor General's Office	1	12
State Customs Service of Ukraine	1	4

State Customs Service of Ukraine



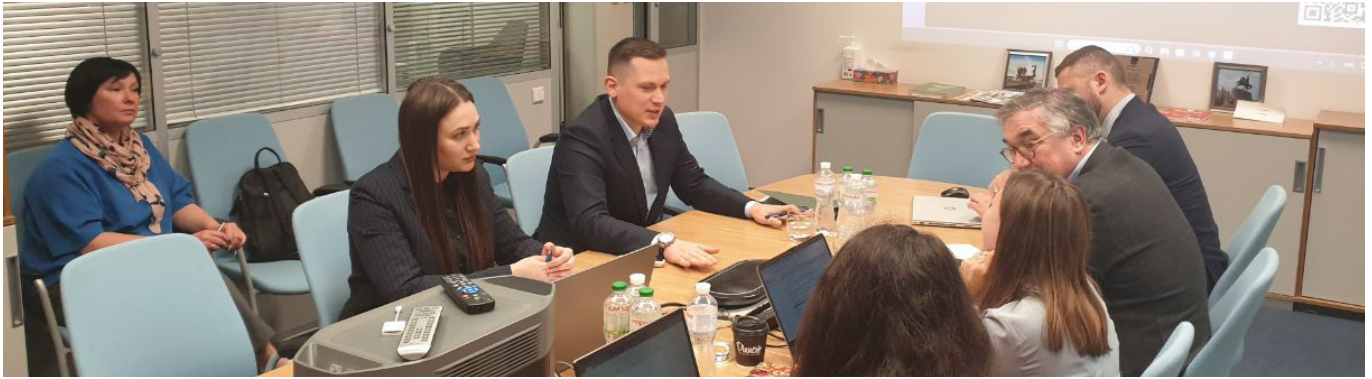
State Tax Service of Ukraine



Prosecutor General's Office



6.2 Cooperation with the State Tax Service of Ukraine



The Business Ombudsman Council maintains a constant dialogue with the State Tax Service of Ukraine both at the Expert Group level, where problem cases of entrepreneurs are considered, and at the head office level. The Council provides the State Tax Service of Ukraine with a platform where we discuss changes to tax legislation, the impact of such initiatives on business, and also develop solutions to jointly resolve systemic business issues.

In the reporting quarter, the Business Ombudsman Council met with the Acting Deputy Head of the State Tax Service of Ukraine Yevhen Sokur. The Council was represented by the Business Ombudsman Roman Waschuk, the Deputy Business Ombudsman Yulia Andrusiv, and tax group investigators.

The State Tax Service of Ukraine presented an initiative on supporting taxpayers with high level of voluntary tax legislation compliance. In particular, tax officials informed the Council that for such taxpayers a number of privileges are given, such as: introducing a moratorium on some inspection types, reducing their duration, providing tax consultations, as well as assigning a personal compliance manager.

In the BOC's view, the project supporting taxpayers with high level of voluntary tax legislation compliance is based on the risk-oriented approach idea. The Council repeatedly emphasized its introduction in reports and communication with the State Tax Service of Ukraine. Such steps show a transition to a better level of service and openness to all taxpayers and will contribute to building trust between business and the state.



6.3 Declaration of Fair and Reasonable Administration



To embody good governance principles in the Ukrainian civil servants behavior culture, the Council actively promotes the Declaration of Fair and Reasonable Administration (the Declaration).

The document positively assessed by the Council's stakeholders, should become a guide and practical tool for applying the provisions of the Law of Ukraine «On the Administrative Procedure» to real cases and resolving controversial situations.

The Declaration is based on the current laws of Ukraine and the EU and OECD principles. It is aimed at overcoming ungrounded pressure and businesses prosecution often holding back entrepreneurial initiatives development.


The document is based on rules that the state and local self-government authorities have to comply with in relations with the private sector, thus ensuring transparency, honesty and reasonableness in administration and decision-making processes.

In 2024, the city of Chortkiv was the first in Ukraine to sign the Declaration of Fair and Reasonable Administration developed by the BOC.

Following it, Ternopil Regional Military Administration signed the document.

Shaping and implementing the Declaration's ideas should serve as an example for other cities seeking to maintain their region's investment attractiveness and promote its economic growth.



A portrait of Roman Waschuk, a middle-aged man with grey hair and glasses, wearing a dark suit, white shirt, and a blue and purple patterned tie. He is standing with his arms crossed. The background is a blurred office setting. A large, light blue quotation mark graphic is positioned behind the text on the right side of the image.

“Signing the Declaration with the city of Chortkiv and Ternopil Oblast is a pilot project we are going to develop in other regions of Ukraine to influence changes in outdated governance practices and negative treatment of business, as well as to develop a culture of mutual dialogue,”

Roman Waschuk
Business Ombudsman

6.4 Regional visits

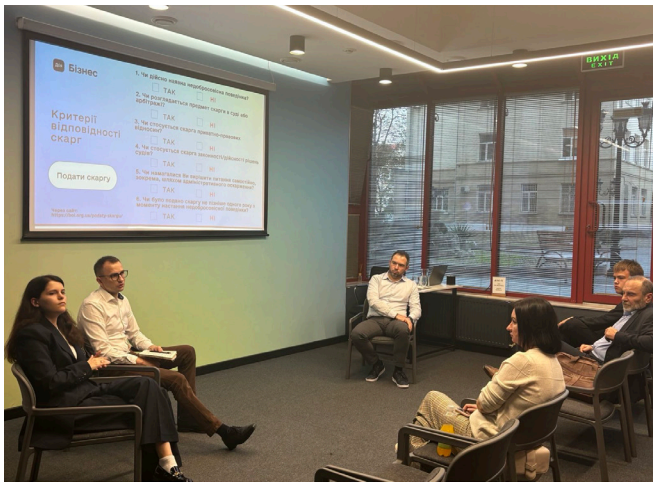
Therefore, in the last quarter of 2024, the BOC's team led by the Business Ombudsman, made

6
regional
visits



On October 10, 2024, the Council's team visited Odesa.

There we met with entrepreneurs at Diia.Business local center.



On October 21-23, 2024, we visited Lviv.

During the visit, the Business Ombudsman and his Deputies, with the participation of the Policy & Recovery team, met with Lviv City Council and Lviv Regional Military Administration representatives. They discussed cooperation with the Lviv authorities in resolving problematic issues of entrepreneurs.

Separately, the Council's team met with entrepreneurs from the EBA Western Ukrainian Office, the Union of Ukrainian Entrepreneurs, and the Danish Business Association.



The program of the visit to Lviv Oblast also included meetings with representatives of:
Roomio and Pozhmashyna relocated enterprises



Enzym and Kormotekh companies



In addition, we met with Lviv IT Cluster and a company operating in the mil-tech.



On October 23-25, 2024, we visited Ternopil.

During the visit to Ternopil, the Business Ombudsman and his team met with Ternopil City Council and Ternopil Regional Military Administration representatives.



Continuing our cooperation with business support centers, we met with the local business community at the Diia.Business center in Ternopil.



The Business Ombudsman presented the Council's activities at an event at the "Western Ukrainian Industrial HUB".



An important meeting was held with the CEO of Schréder, one of the world's largest lighting manufacturers, the Council's complainant. Our team is currently working to resolve the company's problem related to customs clearance of goods.



On October 25, 2024 we visited the city of Chortkiv, Ternopil Oblast.

In Chortkiv, we met with both the City Council and representatives of companies with foreign investments having production facilities in the city - SE Bordnetze -Ukraine and Billerbeck.

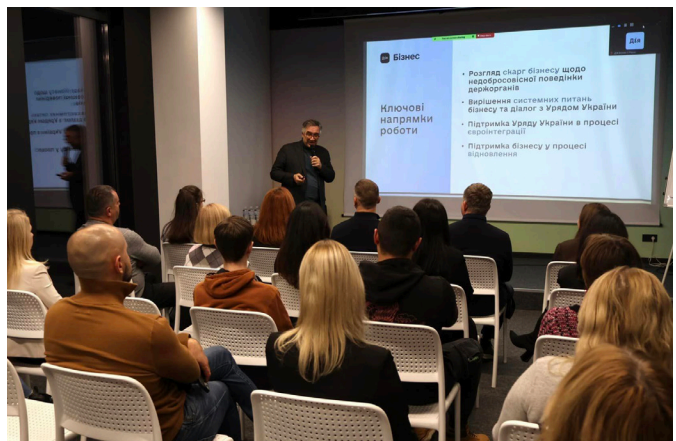


On November 14-15, 2024, we visited Rivne.

During the visit, the Business Ombudsman and his team met with Rivne City Council and Rivne Regional Military Administration representatives, with whom they discussed conditions for doing business and opportunities for relocated enterprises in the region.



We met with entrepreneurs at the Diia.Business center.



The visit program also included meetings and discussions of problematic issues with the management teams of Verallia, Kronospan Rivne and Morgan Furniture companies.



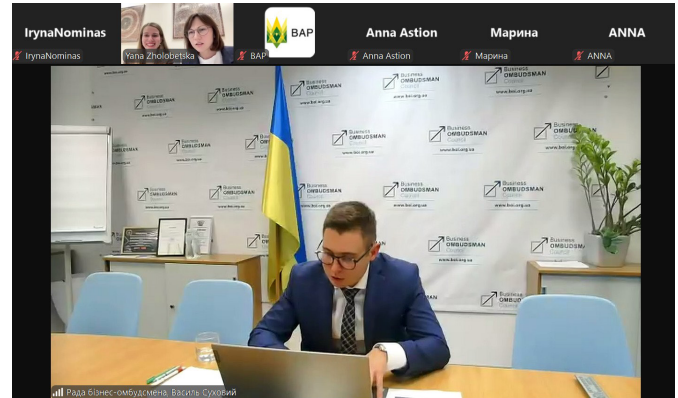
We met with entrepreneurs who relocated from Kherson Oblast to Rivne and opened their own bookstore.

6.5 Webinars for businesses and lawyers

A senior investigator of the Business Ombudsman Council Vasyl Sukhoviychuk was the speaker at the webinar «Tax Inspections. Pass and (not) Forget». The event was organized by Martyniv Law Firm jointly with the Ukrainian Agri Council (UAC) with the participation of the Business Ombudsman Council.

During the event, attention was dedicated to the Council's main focus area and complaints submission mechanism.

Practical tips for business as regards appealing decisions once tax inspections passed, have also become an important part of the speech. The Council's senior investigator explained in detail how to prepare documents to challenge tax authorities' decisions, what to pay attention to during inspections and how to interact with regulatory authorities.



MARTYNIIV
LAW FIRM

Рада Бізнес-Омбудсмена

ВАР

ПОДАТКОВІ ПЕРЕВІРКИ. ПРОЙТИ І (НЕ) ЗАБУТИ

04 ЖОВТНЯ 2024
12-00

Безкоштовно за умови попередньої реєстрації

3 питання реєстрації: (099) 651-65-00, Євгенія

Андріана Мартинів
адвокат,
членський партнер, радниця ВАР

Яна Жолобецька
аудитор, партнер податкової
практики, радниця ВАР

Василь Суховий
старший інспектор
Ради Бізнес-омбудсмена

6.6 Calendar of Events

1.10.2024

Expanded CBU Board of Directors meeting
Organized by
Confederation of Builders of Ukraine

3.10.2024

Meeting with the German Ambassador
Organized by
Embassy of the Federal Republic of Germany in Ukraine

7.10.2024

Meeting with the Confederation of Builders of Ukraine
Organized by
Confederation of Builders of Ukraine

8.10.2024

Meeting with the head of the Brave 1 cluster, Natalia Kushnerska
Organized by
Business Ombudsman Council

11.10.2024



Business Protection Forum
Organized by
Ukrainian National Bar Association

14.10.2024

Pulse. Strategic Session
Organized by
Ministry of Economy of Ukraine

15.10.2024

Event "Funding Ukraine's Recovery"
Organized by
Chatham House

17.10.2024

Nomination Committee meeting
Organized by
Ministry of Economy

26.10.2024

Event “What’s Next in the Fight Against Corruption? Dialogue on the Future Anti-Corruption Agenda of Ukraine”

Organized by
EU Anti-Corruption Initiative

30.10.2024



Legal Advisors Forum

Organized by
Yurydychna Praktyka Publishing House

1.11.2024

10th Youth Security Forum

Organized by
Open Ukraine Foundation

4.11.2024

Meeting with the Defense Alliance of Ukraine

Organized by
Business Ombudsman Council

5.11.2024

Meeting with the Association of Ukrainian Defense Manufacturers

Organized by
Business Ombudsman Council

7.11.2024



Public Side Event
“Unlocking the Potential of Doing Business in Ukraine for Japanese Private Sector: Opportunities and Challenges”

Organized by
United Nations Development Programme (UNDP)

7.11.2024

Meeting with the Head of the State Operator for Non-Lethal Acquisition Arsen Zhumadilov

Organized by
State Operator For Non-Lethal Acquisition (DOT)

7.11.2024

Meeting with the Minister for Strategic Industries Herman Smetanin

Organized by
Ministry of Strategic Industries of Ukraine

7.11.2024

Kyiv International Economic Forum

Organized by
Kyiv International Economic Forum (KIEF)

11.11.2024

Nomination Committee Meeting

Organized by
Ministry of Economy of Ukraine

12.11.2024

EBA Annual Membership Meeting

Organized by
European Business Association

13.11.2024

Meeting with co-founder of “Technologies of Progress” NGO Maksym Nefyodov

Organized by
Business Ombudsman Council

13.11.2024

Meeting with H.E. Ambassador Ms. Elena Leticia Mikusinski

Organized by
Embassy of Argentina in Ukraine

13.11.2024

Meeting with the Defense Procurement Agency

Organized by
Defense Procurement Agency

14-15.11.2024

Rebuild Ukraine 2024 Conference in Warsaw

Organized by
Premier Expo

15.11.2024

Taskforce Summit on PPP in Fighting Financial Crime in Ukraine

Organized by
Royal United Services Institute (RUSI)

18.11.2024

Nomination Committee Meeting

Organized by
Ministry of Economy of Ukraine

19.11.2024



Meeting with Serhii Tkachuk, Head of the State Service for Food Safety and Consumer Protection of Ukraine
Organized by
State Service for Food Safety and Consumer Protection

19.11.2024

Nomination Committee Meeting
Organized by
Ministry of Economy of Ukraine

20.11.2024

Meeting of the Advisory Board for the Establishment of the State Control Authority
Organized by
Ministry of Health of Ukraine

20.11.2024

Meeting with Serhii Sukhomlyn, Head of the Restoration Agency
Organized by
Restoration Agency

21.11.2024

Conference “Reform Matrix: Strengthening Economic Growth Foundations for EU Accession”
Organized by
Government of Ukraine

21.11.2024

Conference “Dignity. Safety. Quality. Meeting at the Frontier”
Organized by
Frontier Institute

21.11.2024



Ukrainian Outsourcing Summit
Organized by
Lviv IT Cluster

22.11.2024

International Conference on “Compensation and Other Redress for Damage caused by the Aggression of the RF”
Organized by
USAID Justice for All

22.11.2024

Nomination Committee Meeting
Organized by
Ministry of Economy of Ukraine

22.11.2024

Meeting in Swedish Embassy
Organized by
Embassy of Sweden in Ukraine

22.11.2024

Meeting with Myroslav Laba, the Union of Ukrainian Entrepreneurs analytical center expert
Organized by
Union of Ukrainian Entrepreneurs (SUP)

25.11.2024

Danish Business Forum
Organized by
Danish Business Association

25-27.11.2024



ACN Business Integrity Group meeting
Organized by
OECP

27.11.2024



Fourth Integrity Business Group
Organized by
OECP

29.11.2024



Nordic Ukraine Summit
Organized by
Nordic Ukraine Forum

30.11.2024



Young Lawyers Forum
Organized by
Young Lawyers Council of Ukraine

3.12.2024

Rebuild Ukraine Business Conference 2024
Organized by
 Canada-Ukraine Chamber of Commerce (CUCC)

3.12.2024



Presentation "Ukraine's Economy in 2025: Forecasts from Economists and Officials"
Organized by
 Center for Economic Strategy

5.12.2024



Austrian Business Circle
Organized by
 Embassy of Austria in Ukraine

6.12.2024



Criminal Law Forum
Organized by
 Ukrainian Advocates' Association

10.12.2024

2024 SUP Awards Ceremony
Organized by
 Union of Ukrainian Entrepreneurs (SUP)

10.12.2024

Meeting of the working (negotiating) group for preparing Ukraine's negotiating positions during negotiations with the EU on conclusion of Ukraine Accession Agreement to the EU on Chapter 3 (Right of establishment and freedom to provide services)
Organized by
 Government of Ukraine

11.12.2024

UNIC Executive Committee Meeting
Organized by
 Ukrainian Network of Integrity and Compliance (UNIC)

12.12.2024

Round table with the Confederation of Builders of Ukraine
Organized by
 Business Ombudsman Council jointly with the Confederation of Builders of Ukraine

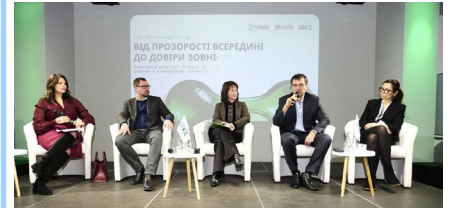
13.12.2024

Online meeting with the State Tax Service on the pilot project of the tax risk management system functioning (compliance risks)
Organized by
 State Tax Service of Ukraine

16.12.2024

KIEF TALKS "2024: A Year of Challenges. Will 2025 Be the Year of Restoration"
Organized by
 Kyiv International Economic Forum (KIEF)

17.12.2024



UNIC panel discussion "Parity Relations Between Business and Government: Trust on the Path to Economic Security and European Integration,"

Organized by
 Ukrainian Network of Integrity and Compliance (UNIC)

20.12.2024



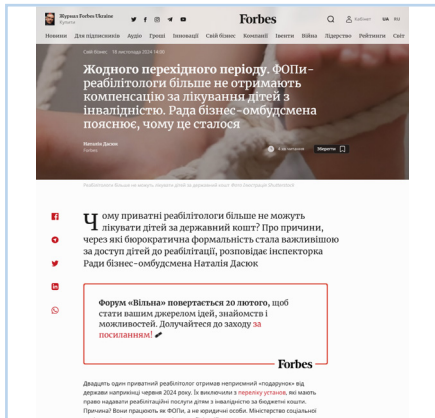
Christmas WELDI Session
Organized by
 American Chamber of Commerce (ACC)

6.7 Cooperation with media

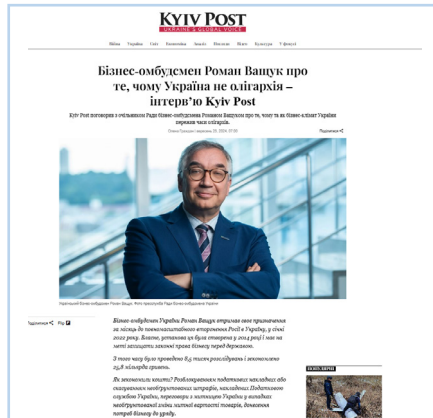
The Business Ombudsman Council actively cooperates with the media. The Business Ombudsman and his team give interviews, commentaries, and write publications to highlight the institution's activities and draw attention of the public and government bodies to systemic problems of entrepreneurs.

In the reporting quarter, we cooperated with the following media:

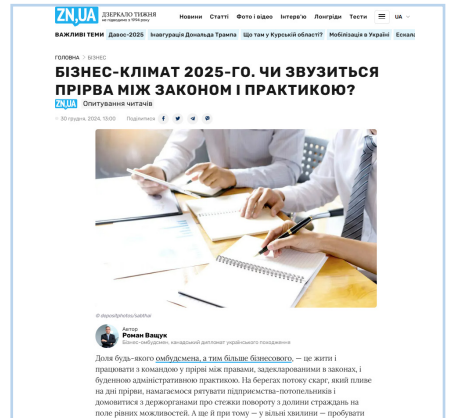
Forbes



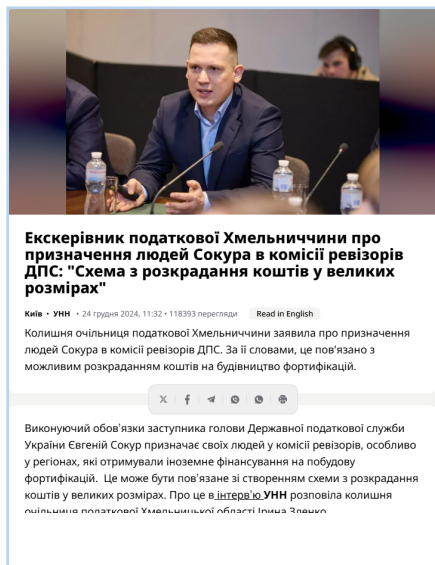
Kyiv Post



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UNN



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Yellow Blue Business Platform



We were also mentioned by:





**Business
Ombudsman
Council**

Eliminating barriers to doing business in Ukraine



www.boi.org.ua