

# Annual report

# 2024



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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. In cases and feedbacks, published in the report, companies 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.



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Latvia

# Foreword

**Roman Waschuk,**  
Business Ombudsman



2024 marked the tenth anniversary of the collective founding of our Business Ombudsman Council through the combined signatures and efforts of the Government of Ukraine, the European Bank for Reconstruction and Development, and a consortium of five leading Ukrainian business associations. Starting with a Memorandum of Understanding in May of 2014, and then a Cabinet of Ministers Decree in November of that year, the foundations were laid for the independent, equidistant results-driven institution that began operations early in 2015.

Thousands of successfully resolved complaints and billions of Hryvnia returned to business later, what shape are we in as we emerge from an eventful wartime 2024? It has been:

**A Year of Results:** With 659 cases resolved and UAH 2.2 billion returned to companies, our success rate has edged up to 64%. Overall complaint numbers are down (1191 this year, compared to 1336 in 2023), reflecting a welcome gradual decline in some of the most frequent administrative irritants faced by businesses in Ukraine: VAT invoice suspensions and non-execution of court decisions. We see the improving VAT situation as a response to the public attention focused on

this issue by our 2023 own-initiative investigation, and thus an incremental systemic success. We hope to see a similar improvement in hitherto abysmal tax audit effectiveness in the wake of our 2024 report “Tax Audits – Verify, but also Trust”. As we wrap up 2024, there has so far been little sign of change, but our advocacy is continuing with new State Tax Service management into 2025.

**A Year of Restructuring:** With the arrival of new Deputy Business Ombudsman and Chief Legal Officer Yulia Andrusiv, we have consolidated all of our complaints investigators into a unified team, with greater career growth and mutual learning opportunities. In parallel, we have stepped up recruiting efforts to get staffing back up to pre-invasion levels.

**A Year of Renewal:** Deputy Business Ombudsman Tetyana Korotka spent much of 2024 shaping and launching our new BOC Policy and Recovery Unit, which combines legal, policy analysis and engineering expertise to both address and anticipate the challenges of building back a better Ukraine. That has meant tackling initial complaints about wartime reconstruction, and surveying companies – both domestic and international – on their post-conflict plans and concerns.



**A Year of Return to the Regions:** While most of our work consists of legal analysis of the paper trail of complaints, and advocating for administrative solutions in either online or offline meetings, actually seeing the people and productive capacities we defend adds depth to our understanding of the BOC mission. That's why we ventured out this year to five of Ukraine's regions (Odesa, Cherkasy, Rivne, Lviv, Ternopil) to visit complainants old and new, and meet with local authorities to promote both business and public service integrity.

**Year of Reasonability:** Ombudsmen, business or otherwise, aim to be constructively critical, mediating dispute resolution and proposing actionable systemic fixes. In 2024, we tried to take this to the macro level, by taking Ukraine's recent Law on Administrative Procedure and working its ideas into a

more easily understood "Declaration on Fair and Reasonable Administration". This document sets out a dozen foundational principles for relations between public authorities and business (as well as individual citizens). Attitudinally, our positive platform is grounded in a presumption of Good Faith in approaching business, and a willingness to Consult First before imposing punitive measures. We've had initial take up at the municipal and regional levels, and hope to make inroads with these EU and OECD-aligned ideas at the national level in 2025.

As I enter my fourth year as Business Ombudsman, I see a renewed and transformed team that is fit for purpose, and open to working with all of our internal and external stakeholders to make 2025 a year of building back a better business environment.

A handwritten signature in blue ink, reading "Louise Basyk". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

# 10



Business  
Ombudsman  
Council

## years

of free protection  
of legal business rights  
from state bodies'  
malpractice

For nearly ten years, the Business Ombudsman Council has been operating in Ukraine. As an independent institution, the Council has the mandate to protect the legitimate rights of entrepreneurs from abuses by state bodies at the pre-trial stage. All services provided by the institution are free of charge.

## Our mission:

**To respond to unfair treatment of business by state bodies.**

## How do we work?

Experienced lawyers analyze business complaints and help create conditions for dispute resolution without court proceedings. They also identify systemic causes of unfair treatment of businesses by the government and develop recommendations to eliminate them.

## What effect does it have?

The work of the Business Ombudsman Council in Ukraine has a tangible impact on businesses. It delivers results at both the individual level—by successfully resolving specific cases—and the systemic level, by providing professional support and facilitating dialogue between businesses and government authorities.

# Priorities and the work format in the third year of russia's full-scale invasion of Ukraine

## Priorities in 2024:

Resolving individual complaints and systemic business issues

Engaging businesses in Ukraine's recovery and addressing challenges while overcoming the consequences of the war

Promoting good governance practices to build trust between businesses and the state

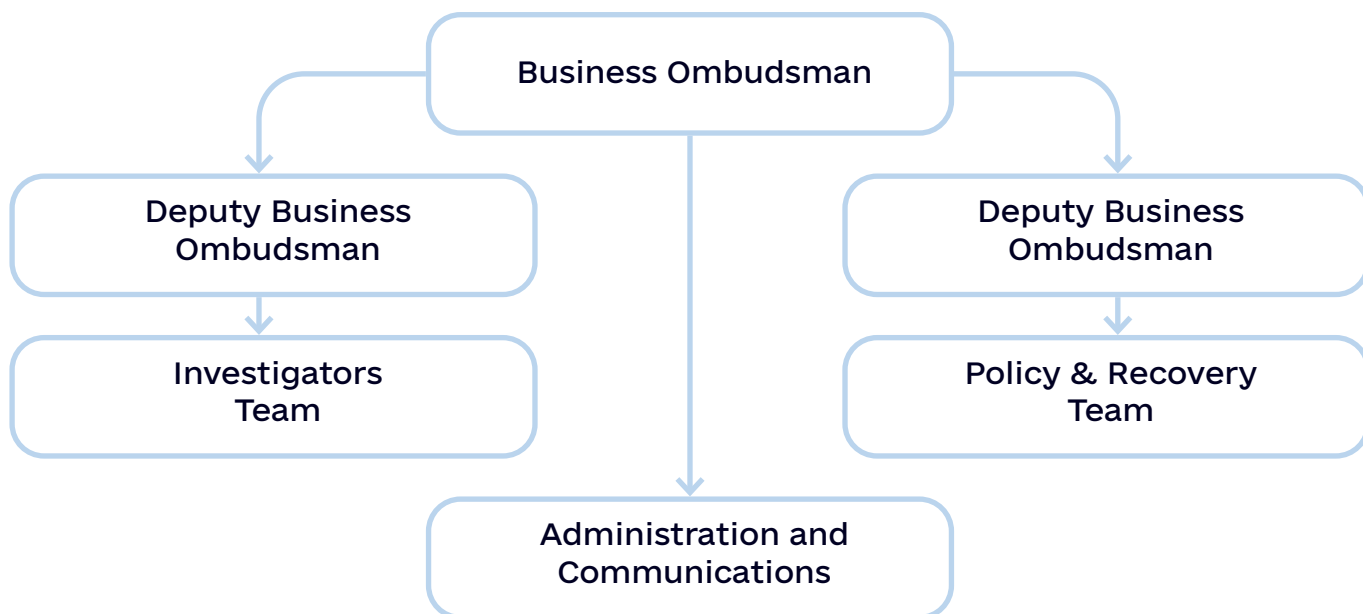
## Award:

In 2024, the Union of Ukrainian Entrepreneurs (SUP) presented the Council an award in the category "For the Protection of Business Rights". This award serves as a strong signal of trust from the Ukrainian business community.





## Team



**33** professionals

with specialized education and expertise in law, economics, engineering, and government relations.

As of early 2025



Despite security and energy challenges, the team maintains a hybrid work format, utilizing modern communication tools for efficient coordination. They also meet in the office on a weekly basis for planning and performance evaluation.

# BOC professional advancement in mediation

Being equidistant from state bodies and independent by its nature, the Business Ombudsman Council has been using alternative dispute resolution tools in solving business problems with state bodies since the first day of its establishment. In its work, the Council adheres to the principles of confidentiality and impartiality allowing it to be a trusted neutral party in settling disputes. Taking into account that mediation as a civilized ADR mechanism is becoming widespread in Ukraine and a special Law on Mediation was adopted in 2021, the Council's team deepened its qualifications in this area in the reporting quarter. Based on the training results at the Ukrainian Mediation Center [kmbs], 16 specialists – both investigators and employees of BOC Operations and Communications Departments received mediator certificates.

## For reference:

Mediation is a process of alternative resolution of disputes between the parties in the presence of a neutral third party mediator, who helps to reach mutual agreement in solving the problematic issue.

Based on the completed course results, the Council team aims to expand its toolkit in order to offer complainants a one more effective way of out-of-court dispute settlement between business entities and state bodies or state-controlled companies.





# 2024 in Review: complaints statistics and main trends

In 2024, the Business Ombudsman  
Council received

# 1191

 complaints

Closed

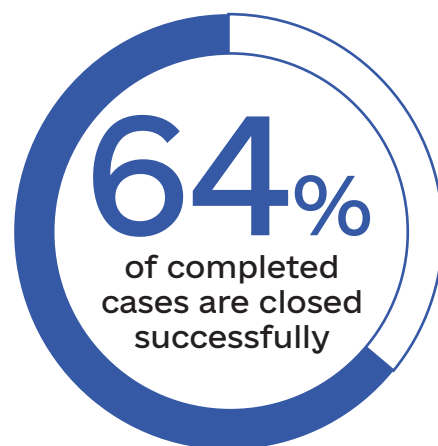
# 659

cases

Investigation of

# 107

cases  
is ongoing.



The financial effect in  
2024 amounted to

UAH **2**  
bn

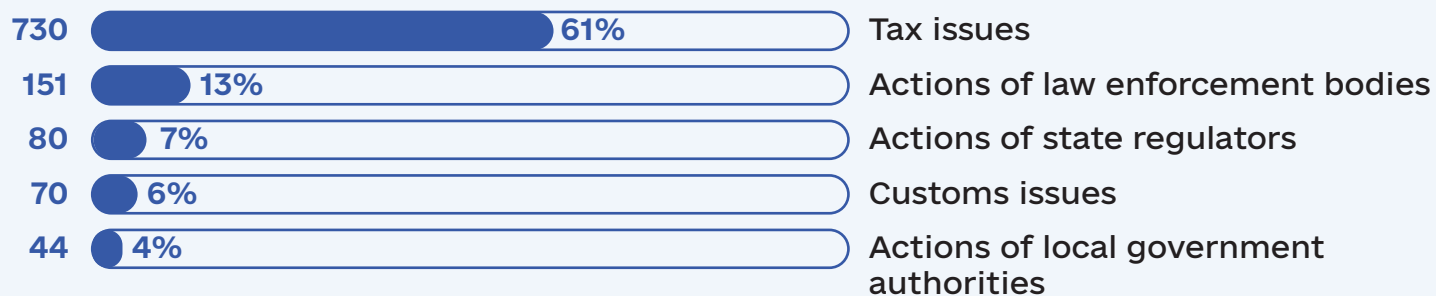
Since launch of operations, the Council  
helped businesses return or save

UAH **27.4**  
bn

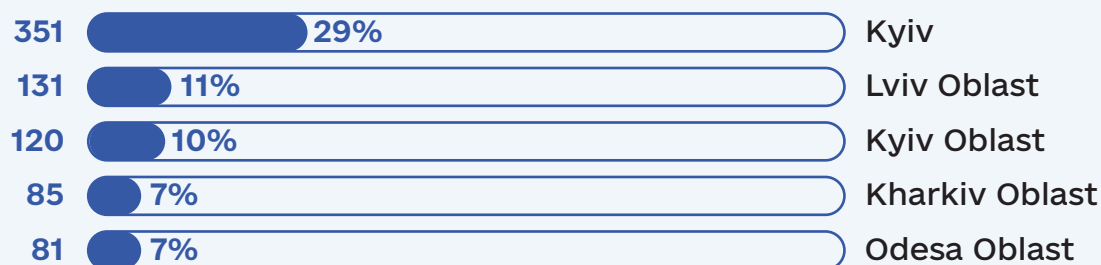




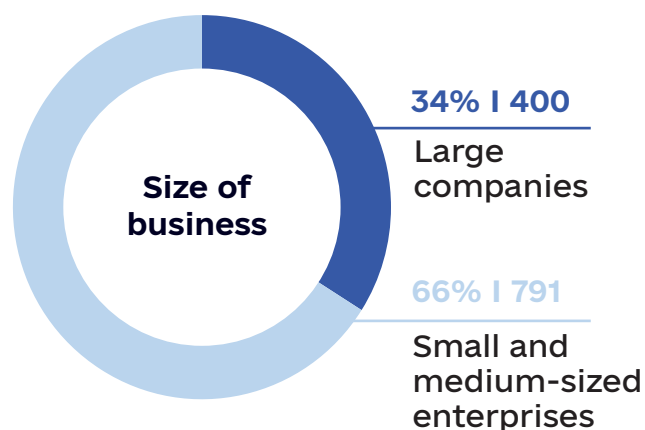
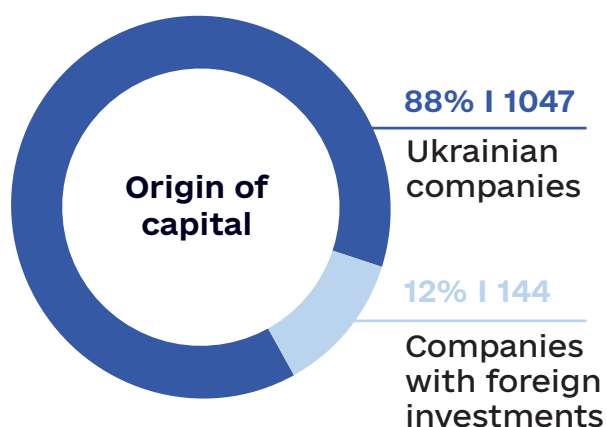
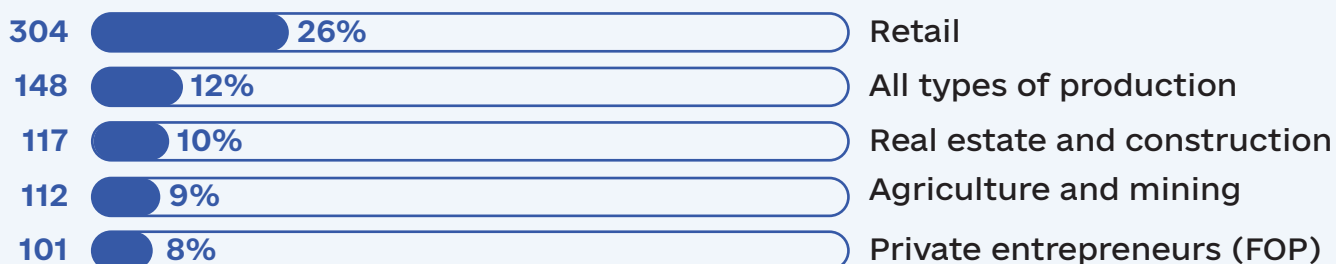
### TOP-5 subjects of complaints



### TOP-5 most active regions



### TOP-5 industries



96%

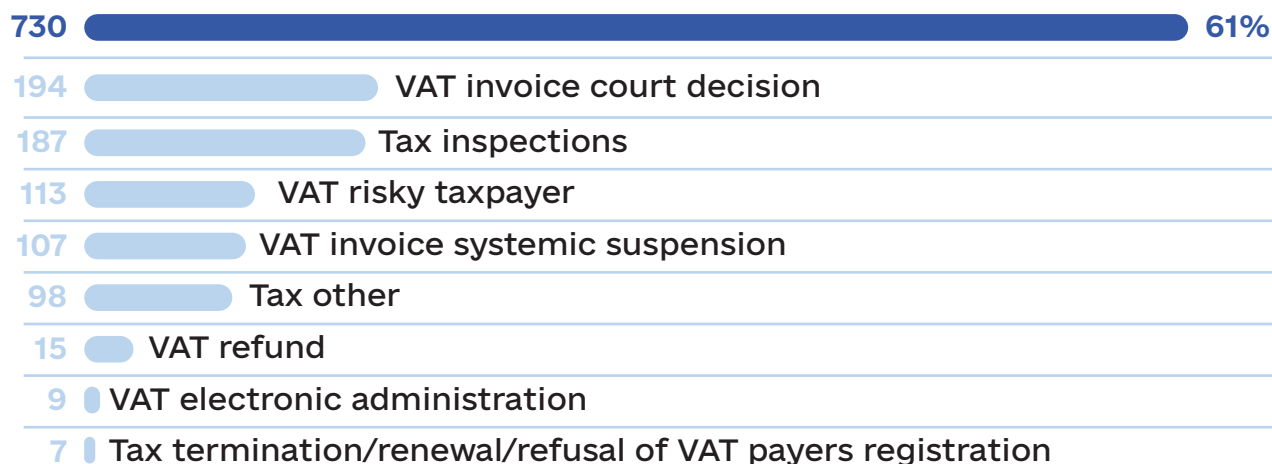
of complainants were satisfied with BOC services (based on feedback forms replies)

### 3.1 Volume and complaints trends

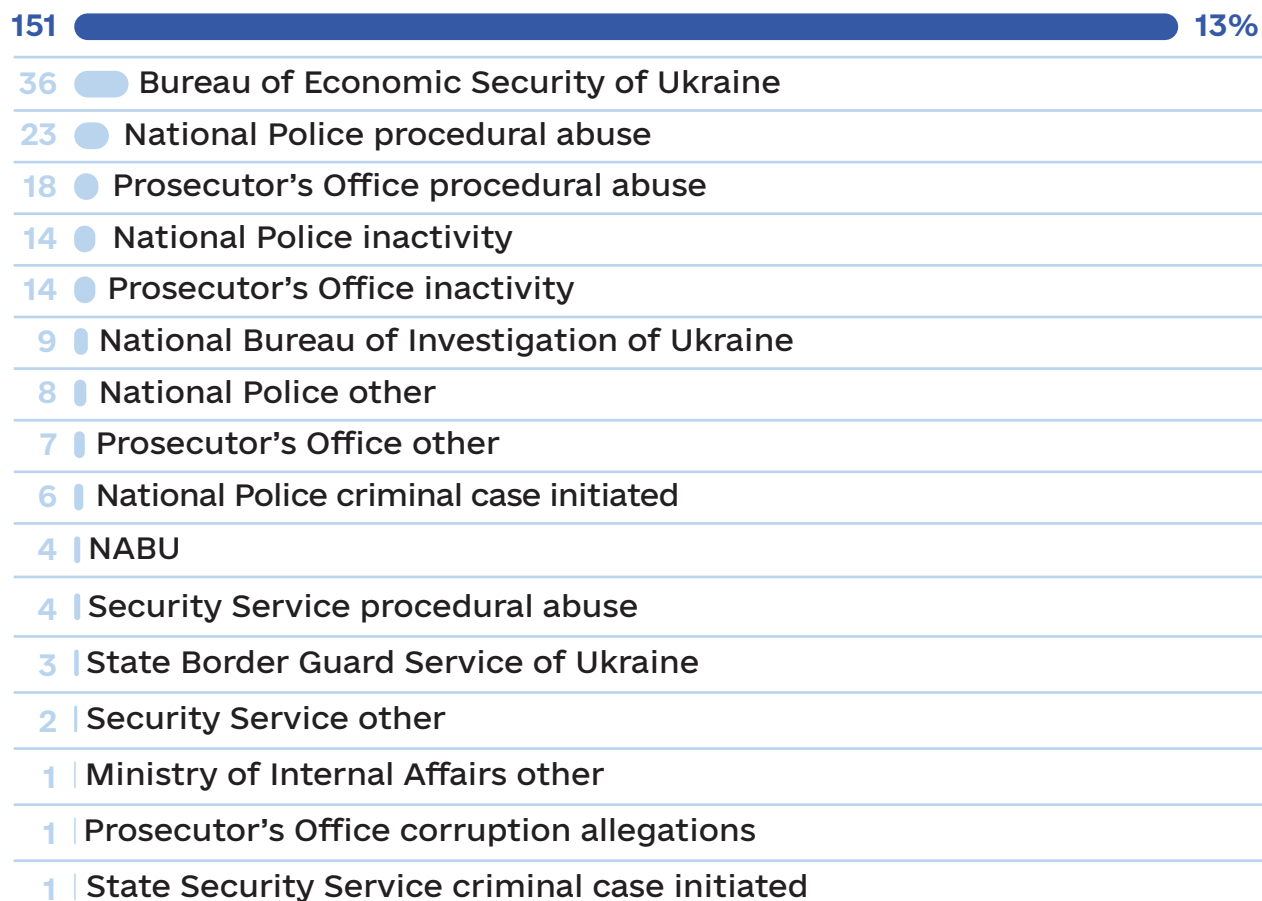
In 2024, the overall amount of business complaints to the Council amounted to

# 1191 appeals

#### Tax issues



#### Actions of law enforcement bodies



## 80 7% Actions of state regulators

### 64 Other state regulators

#### 5 | AMCU

#### 5 | National regulatory agencies NERCUS other

#### 5 | National regulatory agencies NBU other

#### 1 | National regulatory agencies NBU licensing

## 70 6% Customs issues

### 39 Customs valuation

#### 12 Customs clearance delay/refusal

#### 6 | Customs administrative proceedings

#### 6 | HS code changes

#### 5 | Customs other

#### 1 | Overpaid customs duties refund

#### 1 | Customs audits

## 44 4% Actions of local councils/municipalities

### 27 Local councils/municipalities other

#### 13 Local councils/municipalities land plots

#### 3 | Local councils/municipalities rules and permits

#### 1 | Local councils/municipalities investment disputes

## 41 Legislation drafts/amendments

### 16 Deficiencies in regulatory framework other

### 15 Deficiencies in regulatory framework state regulators

### 10 Deficiencies in regulatory framework tax

## 25 Other

## 19 Actions of state companies

### 14 State companies other

#### 5 | State companies abuse of authority

## 10 Actions of Ministry of Justice

#### 8 | Registration department

#### 2 | Enforcement service

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## 7 | B2B complaints

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## 6 | Permits and licenses environment/subsoil

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## 5 | Territorial Recruitment and Social Support Center Military Commissariats and Military units

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## 3 | Courts actions

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## 2 | Courts other

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## 1 | Courts delayed trial proceeding

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# Tax issues

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As in previous years, tax issues topped the ranking of complaints submitted to the Business Ombudsman Council, amounting to 730 appeals or 61%.

Although this is 123 complaints fewer than last year (853 complaints or 64%), the number of tax-related appeals remains at the same level.

**Q1 2024 – 207**

**Q2 2024 – 186**

**Q3 2024 – 165**

**Q4 2024 – 172**

The most common category of tax complaints was issues related to the SMKOR system – 413 complaints (35%). This category includes problems with tax invoice registration suspension, non-compliance with court decisions on tax invoice registration, and inclusion in the lists of risky taxpayers.

Comparing to the beginning of the year (121 complaints), the number of complaints regarding SMKOR-related issues decreased in Q4 2024 (90 complaints). Despite this, VAT issues continue to be a major concern for businesses.

**58% (121 complaints) in Q1 2024**

**53% (99 complaints) in Q2 2024**

**58% (103 complaints) in Q3 2024**

**52% (90 complaints) in Q4 2024**

Throughout the reporting year, the Council continued monitoring the implementation of recommendations

issued as a result of its investigation into issues within the SMKOR system (System for Monitoring Compliance of Tax Invoices/Adjustment Calculations with Risk Assessment Criteria). In certain areas, particularly in the interaction between tax authorities and taxpayers, we observed improvements in practices and a greater focus on service-oriented approaches. Our assessments regarding SMKOR adjustments can be found on pp. 19-21 of this report.

At the same time, the position of the new leadership of the State Tax Service of Ukraine is encouraging, as it has supported the need to address systemic business issues related to VAT. We expect changes and continue our open and regular dialogue with the STS of Ukraine, both at the highest level and within Expert groups and working communications.

Besides VAT issues, another major category of business complaints was tax audits – 188 complaints (16%). The number of complaints about audits in 2024 was similar to the figures from 2023 (189 complaints).

During the reporting year, the Council conducted its second own-initiative investigation, dedicated to the phenomenon of tax audits. We examined both the impact of tax audits on the

business environment and their outcomes for the state in terms of budget revenues. Based on our investigation, we provided systemic recommendations aimed at improving the interaction between taxpayers and the state and restoring trust.

Another common category, “other tax issues” included 98 business appeals.

These complaints related to VAT and concerned disputes over tax demands for payment/debt settlement, revocation of licenses for wholesale fuel trade, correction of taxpayer’s records in the integrated tax card, and reinstatement of single tax payer status.

The Council successfully closed 69% of tax-related cases.

## Actions of law enforcement bodies

In 2024, the Council received 151 complaints about law enforcement agencies – 13% of all appeals. This number is slightly different from last year’s figures (158 complaints or 12%). Thus, appeals dealing with law enforcement issues remain the second most common category of complaints to the Council.

Procedural abuses and inaction of the Prosecutor’s Office and the National Police were among the most frequent concerns raised by entrepreneurs. Throughout the year, the Council repeatedly handled complaints regarding temporarily seized property and law enforcement inaction during investigative actions. Such cases were brought up for consideration at the Expert Group with the Prosecutor General’s Office, which serves as an effective tool for processing business complaints.

In 2024, the Council held several public meetings with the Prosecutor General’s Office, involving leading business

associations, to improve business interaction with law enforcement agencies. Notably, the Council also contributed to making the Standards of Prosecutors’ Activities in Investment Protection legally binding.

In the reporting year, complaints related to the Bureau of Economic Security (BEB) topped the list of law enforcement complaints, with 36 appeals having increased by 25 compared to last year (11 complaints). This indicated a need for reforming this institution.

Only at the end of 2024, a competition was announced for the position of the BEB Director, marking an important step toward reforming the Bureau and aligning its functions—particularly the analytical component of investigating economic crimes—with the expectations of the business community and international experts.

The Council successfully closed 48% of law enforcement-related cases.

## Customs issues

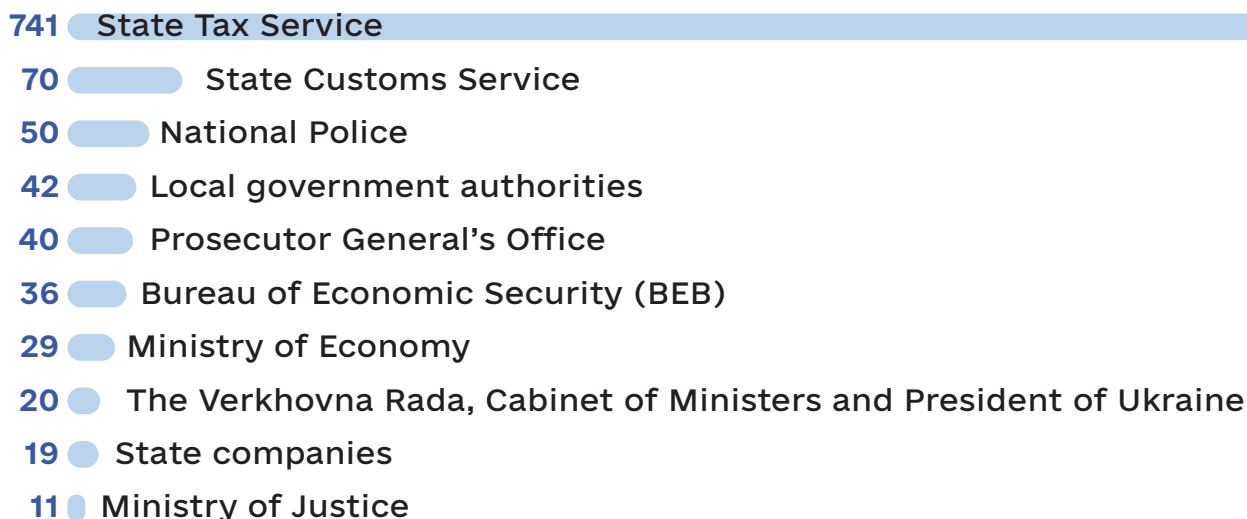
During the reporting year, the Council received 70 complaints (6%) about actions of customs authorities. This is 35 fewer complaints compared to last year – 105 (8%). Businesses raised concerns primarily about customs valuation (39 complaints) and delays/refusals in customs clearance (12 complaints).

In 2024, the Council successfully resolved 22 individual complaints from businesses

regarding customs issues, accounting to 44% of all customs-related cases reviewed by the Council.

The Council helps businesses establish a dialogue with customs authorities, facilitated by meetings of the Expert Group with the State Customs Service of Ukraine, which allows to achieve tangible results for complainants.

### 3.2 TOP-10 state bodies subject to the most complaints



In 2024, businesses filed the most complaints against the State Tax Service, totaling 741 complaints, which aligns with the ranking of complaints by subject of appeals. The State Customs Service received 70 complaints, while the National Police and the Prosecutor General's Office received 50 and 40 complaints respectively.

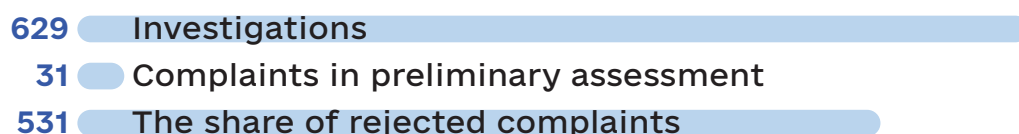
### 3.3 Timelines of the preliminary review of complaints

In 2024, preliminary review of business complaints took on average

**10** working days.

Despite the ongoing martial law and security challenges, the Council's team takes efforts to process complaint materials received as soon as possible. In the reporting year, we managed to meet the deadline of our Rules of Procedure – 10 working days.

### 3.4 Number of investigations conducted and grounds for dismissing complaints



Out of 1191 complaints, BOC conducted 629 investigations. 31 complaints remained at the preliminary assessment stage. The Council rejected 531 appeals as not fitting its eligibility criteria foreseen by the institution's Rules of Procedure. Check out the [BOC Rules of Procedure](#).

### 3.5 Main reasons for complaints dismissal

Complaints outside Business Ombudsman's competence	285
The complaint is ungrounded, or other bodies or institutions already consider such a case	75
According to the Business Ombudsman, the Complainant did not provide sufficient cooperation	55
Other circumstances where the Business Ombudsman, in his sole and absolute discretion, determines that an investigation of the complaint is not necessary	30
Complaints subject to any court or arbitral proceedings, or in respect of which a court, arbitral or similar type of decision was made	27
Termination of investigation due to complaint withdrawal by the Complainant	14
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	12
The party affected by the alleged business malpractice has not exhausted at least one instance of an administrative appeal process	7
A complaint relates to an issue that has already been addressed by the Business Ombudsman in his/her previous decisions	7
Investigation by the Business Ombudsman in a similar case is pending or otherwise on-going	6
Complaints in connection with the legality and/or validity of any court decisions, judgments, and rulings	5
Complaints arising in the context of private-to-private business relations	5
A complaint filed upon one year expiration from the occurrence of the alleged business malpractice	2
The complaint was not submitted by the business entity	1

### 3.6 Timelines of conducting investigations

The average duration of investigations was **79 days** which is 11 days less than the standard envisaged by the Rules of Procedure.

Ratio of closed cases by days:



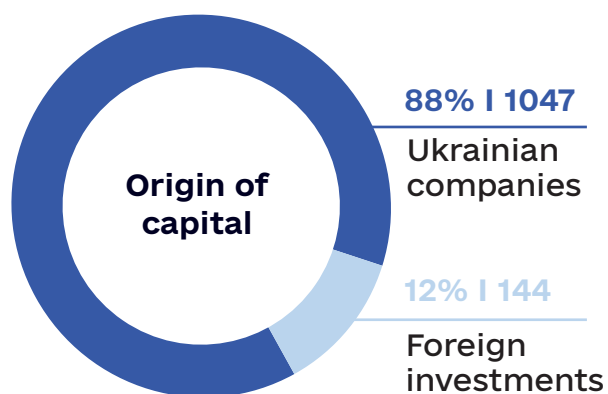
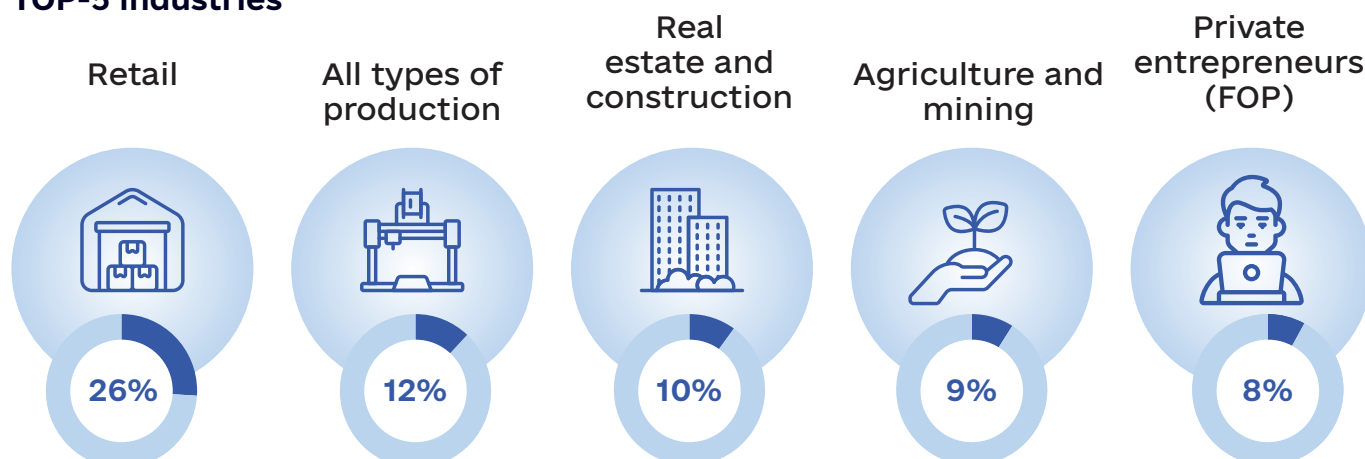
**78%**

of all closed investigations in 2024 we investigated within 90 days, thus meeting the target of BOC Rules of Procedure.

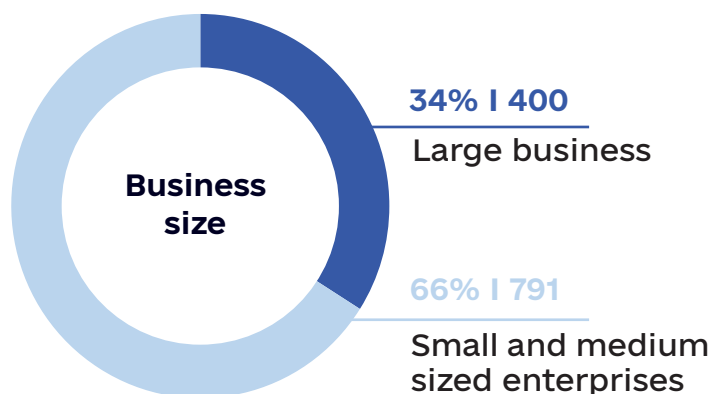


### 3.7 Geography of complaints

#### TOP-5 industries



BOC received 88% of complaints from Ukrainian firms. Appeals from the companies with foreign investments amounted to 12% in 2024.



Analyzing the portrait of a BOC complainant, we once again get reassured that the prevailing amount of complaints is lodged with the Council by representatives of small and medium sized enterprises (SMEs) – 66%. The share of large business accounted for 34% in the reporting year.

# Problems in the VAT system:

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



The Business Ombudsman Council's first own-initiative investigation was devoted to VAT system problems. At that time massive tax invoices suspension affected 20-30 % of taxpayers, creating a threat for further enterprises' existence.

Within the scope of the investigation, the BOC processed official data provided by the State Tax Service of Ukraine and analyzed about 1.5k SMKOR cases investigated by the Council during the last four years and initiated a dialogue with different branches of authorities' representatives concerning necessary

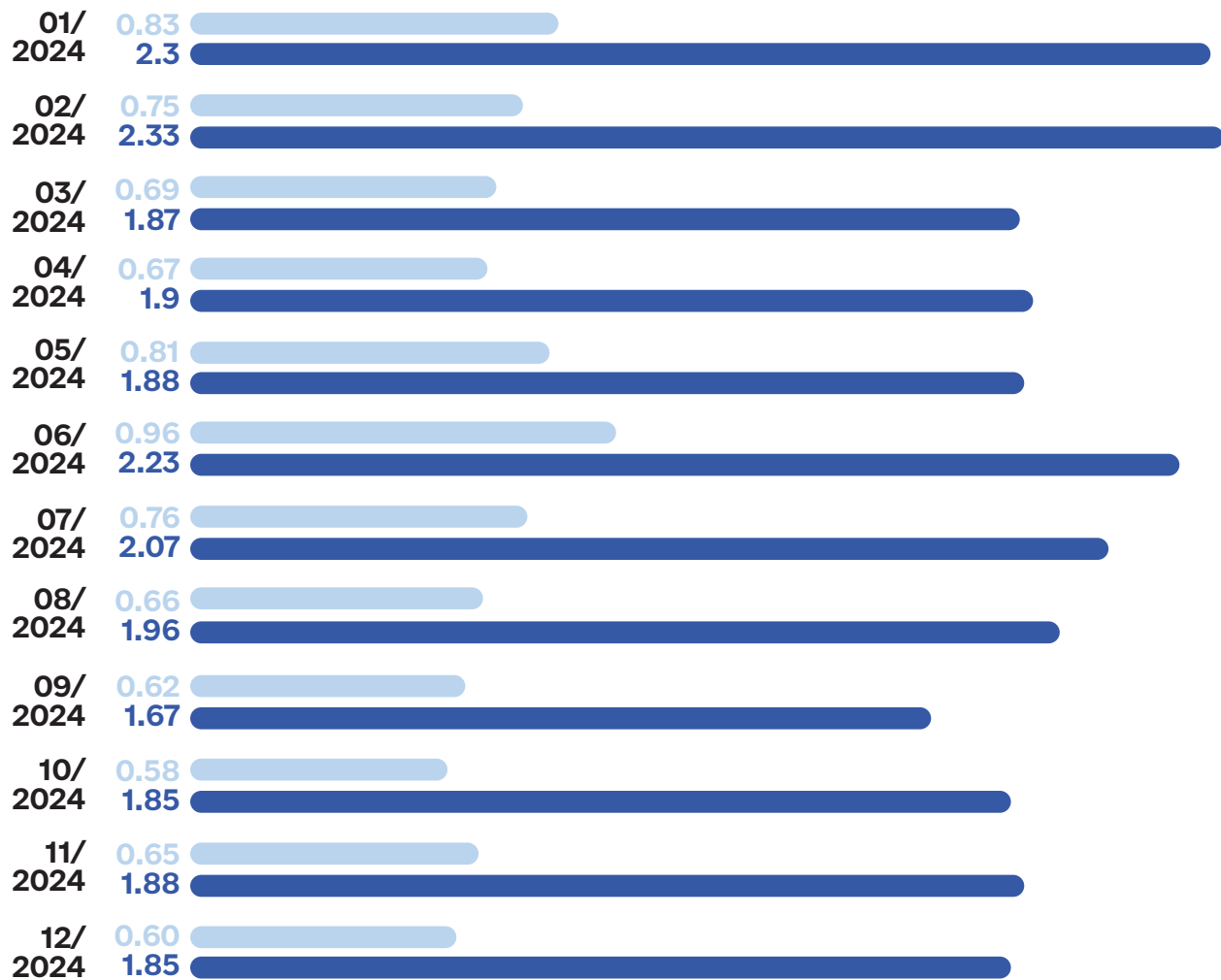
legislative amendments (particularly, to Decree No. 1165). The institution issued recommendations to state bodies to improve SMKOR. Therefore, during the last two years we monitored changes in the VAT system and discussed SMKOR improvement opportunities with the Ministry of Finance and the State Tax Service.

## 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.

At the same time, the Council continued exploring suspensions dynamics, taking into account current complainants' cases to better understand current problems.

### Dynamics of TIs/ACs registration suspensions and blocked VAT amounts



According to the STS statistics, consecutive downward trends in tax invoices suspension are observed: 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 taxpayers faced tax invoices registration suspension (which was lower than in 2022, when about 20-30% of taxpayers encountered suspensions), but slightly more than in June 2024 (8.74%).

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.

At the same time, SMKOR continues occupying top positions in the structure of "tax" business complaints lodged with the Council, having accounted for 57% in the reporting year (64% in 2023).

## Current recommendations for improving SMKOR:

- 1 Intermediate stages before applying adverse consequences to taxpayers;
- 2 Riskiness of a taxpayer: transparency, proportionality, effectiveness of procedures;
- 3 Administrative practice adjustment, taking into account court decisions;
- 4 Key indicators data availability;
- 5 A balanced attitude towards taxpayers 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 taxpayers. For this purpose, at the beginning of 2025, a new leadership team of the State Tax Service of Ukraine already made first steps, showing desire to overcome systemic VAT problems. The Council welcomes the State Tax Service of Ukraine readiness to regulate problems in SMKOR and openly offers its expertise to tax authorities for the changes to be effective and approved by the business community.

# 5 Own-initiative investigations: tax inspections

The format of the Business Ombudsman Council's own-initiative investigations is a special working tool used by the Council for making systemic business issues in-depth analysis and troubleshooting them.

During own-initiative investigations, the Council draws special attention to pressing problems of entrepreneurs, taking a deep dive into which, the institution develops targeted recommendations for government bodies to settle them.

In early 2024, the Council conducted its own-initiative investigation into the phenomenon of tax inspections.

Taking into account the tax complaints statistics, inspections are the second most common category of appeals after SMKOR. In 2024, the number of complaints about tax inspections amounted to 16% (188 complaints), while last year it was 14% (189 complaints).

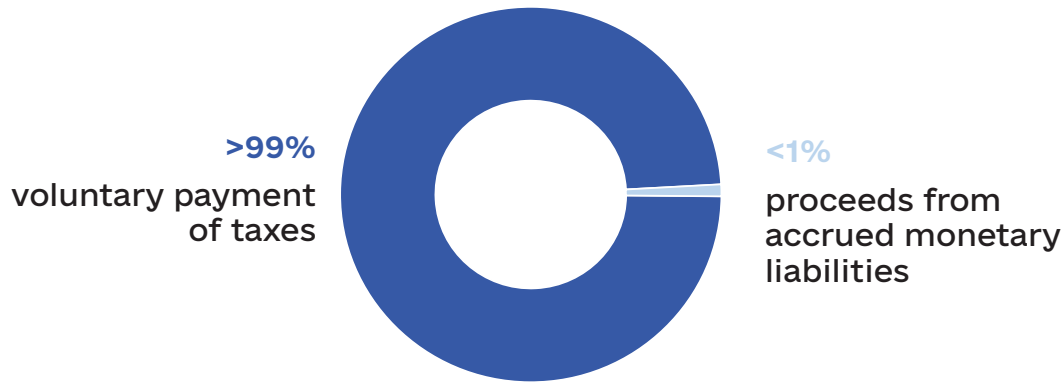
The Council's team, based on business appeals statistics of challenging tax inspections findings in the last seven years, as well as the State Tax Service bodies' statistics and reports, investigated tax inspections influence on the business environment, as well as results for the state in terms of budget revenues.





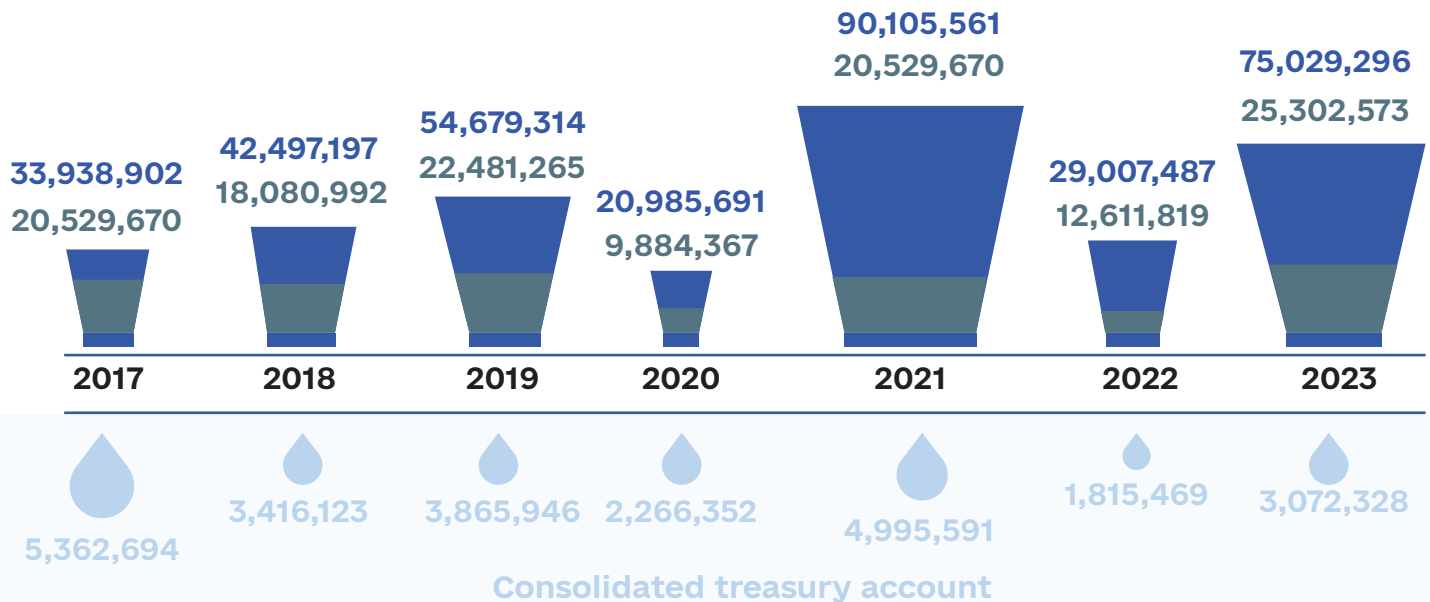
# Own-initiative investigation conclusions

The Council found out that 99+% of tax budget revenues were generated thanks to voluntary payment of taxes, while the share of income from reassessments and penalties as a result of inspections for the last 7 years did not even reach 1%.



The Council also noted significant “gaps” between additional reassessment amounts, agreed settlements and actual revenue amounts in the budget.

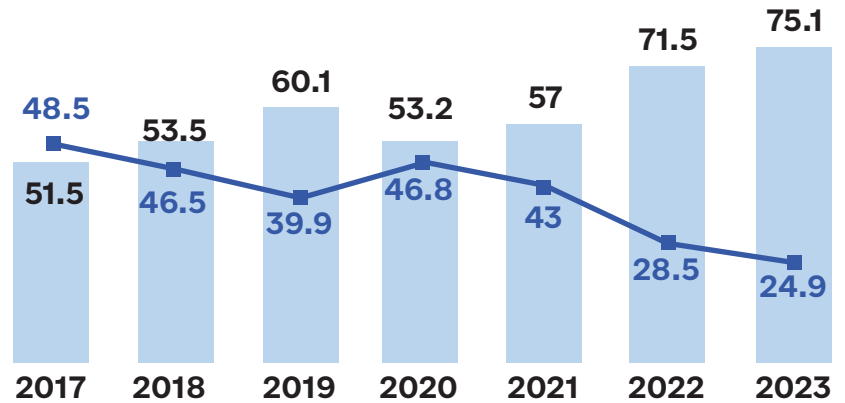
In 7 years, annual reassessment and penalties increased from UAH 34 bn in 2017 to UAH 90 bn in 2021 and to UAH 75 bn in 2023. However, the agreed settlements level in 2017-2023 fluctuated from 23% (2021) to 64% (2017), and budget revenues - from 4% (2023) to 16% (in 2017).



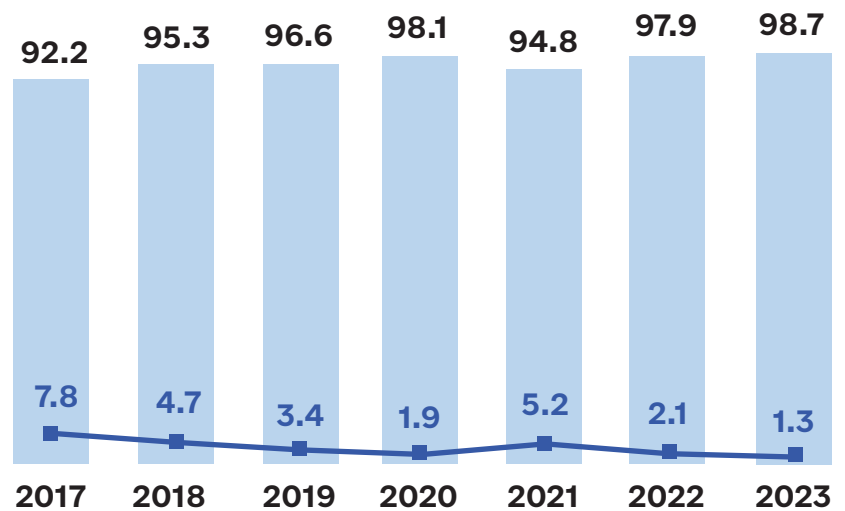
Reassessments and penalties in total
  Received in the budget
  Agreed in total

More than 90% of actual and scheduled inspections end with drawing up a non-compliance report. A dramatically different trend can be traced in unscheduled inspections – since 2018, the proportion has started to shift from about 50% to a gradual increase in non-compliance reports, growing to a maximum figure of 75% in 2023.

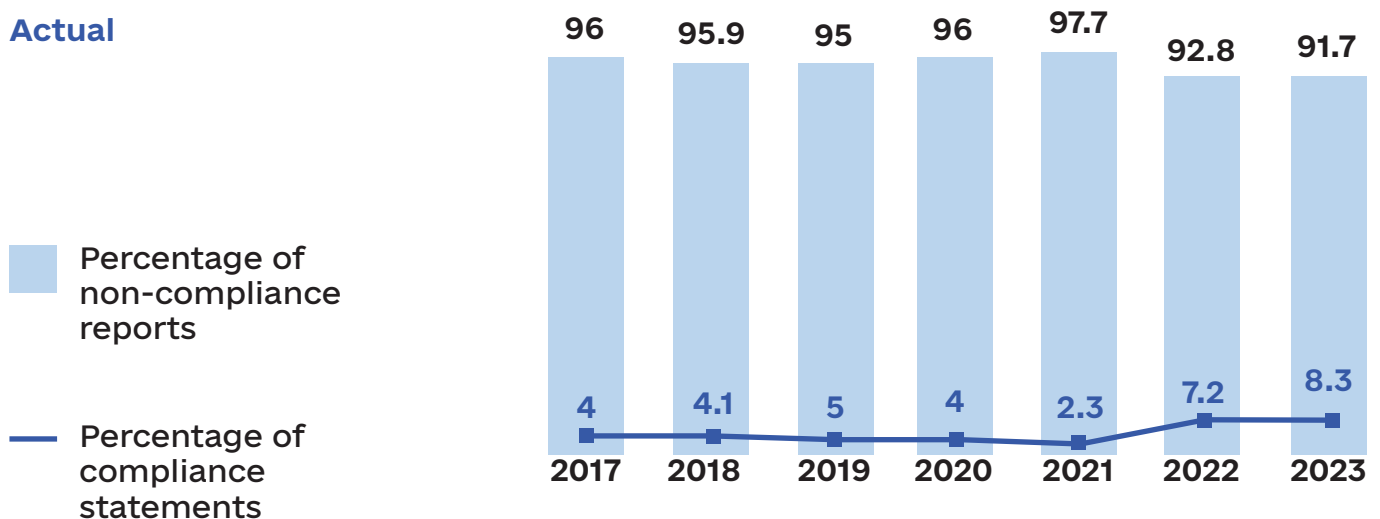
### Documentary unscheduled



### Documentary scheduled



### Actual





Based on tax audit complaints processed by the Business Ombudsman Council and analysis of the outcomes of administrative and judicial appeals, we have concluded that during 2017-2023, out of 1430 complaints, the Council accepted and reviewed 1152 complaints (81%). 408 complaints (35%) were closed by the Council as a result of a successful administrative appeal at the STS level; the rest of these cases were closed as a result of administrative appeal failure. The Council's complainants then went on to court in **644 cases, i.e. in ~87% of cases closed without success, and the share of cases where the court completely or largely ruled in favor of business, is ~85%**. Thus, as can be seen from the Council's statistics, **court-confirmed administrative appeal outcomes in favour of the STS account for only ~15%**, despite the fact that for 2017 the Ministry of Finance set the KPI at 50%, and the strategic goal at 85%.

Considering the aforementioned conclusions, business and professional community mostly perceive tax inspections as a punitive fiscal tool of the state, and, according to the Council's findings, assess their trust in regional tax authorities in context of audits at the level of 13%, and 19% as regards the State Tax Service (STS) Head Office.

## Presentation of the investigation

The Council presented its own-initiative investigation results on tax inspections in April 2024. The Business Ombudsman Roman Waschuk publicly presented a Report based on our own-initiative investigation results at a press event, having enlisted the support of leading business associations.

The press briefing was joined by representatives of the American Chamber of Commerce, European Business Association, Ukrainian League of Industrialists and Entrepreneurs, Chamber of Commerce and Industry, Union of Ukrainian Entrepreneurs and Federation of Employers of Ukraine.



Considering the results of discussions and consultations with industry experts, business and stakeholders, the Council outlined a number of ideas in the report that can positively influence tax audits effectiveness and contribute to improving relations between business and the state.

## Based on own-initiative investigation results, the Council sees the following key steps to improve the situation:

- 1** Adhering to fair and reasonable administration principles – Declaration
- 2** Implementing “CONSULT FIRST” principle (preventive communication with taxpayers)
- 3** Implementing alternative dispute resolution methods (tax mediation)
- 4** Developing targets and ambitious KPI (particularly for assessing court trial consequences)
- 5** Strengthening legal departments’ roles at the inception stage of tax audits
- 6** Improving transparency of information for taxpayers and society
- 7** Regular feedback from entrepreneurs



[Read the report](#)



In the Council's view, preventive communication with taxpayers instead of burdensome decisions for both parties is essential for building trust between business and the state. Therefore, the institution is awaiting effective and decisive steps from tax officials to address tax business issues being of constant concern for thousands of entrepreneurs.



# Examples of closed investigations

In this section, we present examples of complainants' appeals, which we managed to resolve with a positive result in 2024.

## Company Returns UAH 1.9 mn of Registration Limit



A Kyiv-based company turned to the Business Ombudsman Council back in 2021, having an issue with the capital's tax office. In 2019, tax officials canceled the company's VAT certificate. As a result, the registration limit amount in the electronic VAT administration system (SEA VAT) was reduced by almost UAH 1.9 mn.

Later, the court took the company's side and canceled the tax authority's decision. Now, the capital STS was obliged to execute the court's decision. Yet, the company independently managed to have the tax authority return it to the VAT payers register. At the same time, the situation couldn't be resolved at that point, because the tax office still had to adjust the VAT registration limit amount in the SEA by returning the same UAH 1.9 mn written off when the certificate was canceled. As it later turned out, the lack of the necessary software became an obstacle to resolving the issue.

After processing the complaint, the Council upheld the complainant's position and officially communicated with the State Tax Service. Over ten times, the Council discussed the issue with STS in the format of an Expert Group, and also held several working meetings with the participation of the taxpayer.

Thus, according to the Tax Code provisions, in case of cancelling the decision to revoke the VAT payer registration, the registration limit amount shall be recalculated within three working days after the date of the decision to renew the VAT payer status in the system. However, as it turned out, for a long time the STS lacked the tools to take this action technically, and practical aspect resolution of this issue was delayed for almost three years. It is noteworthy that the Council



issued recommendations to the Ministry of Finance and STS to arrange a technical update of indicators in the SEA VAT in the systemic report “Administering Taxes Paid by Business” (2020). For our taxpayer the STS implemented technical solutions that allowed updating all the payer’s indicators in the SEA VAT.

The case was closed successfully. In the meantime, the Council has already received new complaints, where the STS planned to use algorithms developed during processing the mentioned complaint to renew lost indicators in SEA VAT as a result of a similar situation.

## State Bureau of Investigation Returns Car Company’s Seized Property and Funds



A cars importer complained to the Business Ombudsman Council because law enforcement officers did not return the property seized as a result of the search.

It is known that in November 2021, the State Bureau of Investigation (SBI) conducted a search of the house of the company’s CEO, during which they seized two laptops and USD 265k in cash. In addition, the search was also performed in the company’s office, where the law enforcement officers also seized the company’s equipment. In December 2021, the investigating judge refused to arrest temporarily seized property, and therefore the law enforcement officers had to immediately return it to the complainant. However, they did not do it, and the jurisdiction of the case changed several times. Meanwhile, the company unsuccessfully appealed to pre-trial investigation bodies and the Prosecutor General’s Office.

While investigating the case, during June-October 2023, the Council repeatedly sent letters to the Prosecutor General’s Office, Kyiv City Prosecutor’s Office, the Main Directorate of the National Police in the city of Kyiv, the Chief Investigation Department of the SBI and the Territorial Directorate of the SBI in the city of Kyiv and requested to immediately return temporarily seized property to the complainant as required by the court ruling. The Council emphasized that, according to the ruling conclusions, the seized items did not contain evidence in criminal proceedings, so it was obvious that property retention by law enforcement officers violated the company’s rights. The Council twice submitted a complaint for consideration of the Expert Group with the Prosecutor General’s Office, thanks to which it was finally possible to achieve a result. The SBI returned temporarily seized equipment and USD 265k to the company’s CEO.

## STS Returns UAH 24.3 mn of Registration Limit to the Supermarket Chain



The Council received complaints from two FMCG retail players with a similar scenario.

The complaints related to the failure of the tax service to recalculate the registration limit for cargo customs declarations for which VAT was paid. Since May 2022, one of the companies has been on the simplified taxation system as a single taxpayer of the third group at a rate of 2%. While being on the simplified taxation system, the company continued importing goods with paying VAT.

In August 2023, after the state canceled preferential tax conditions, the supermarket chain returned to the general taxation system with paying VAT.

Meanwhile, the company discovered that the registration limit for the VAT amount paid for customs declarations issued while being on the simplified system, was not reflected contrary to the provisions of tax legislation, particularly para. 9-1.2.1 subsection of Chapter 8 XX of the CCU.

After analyzing the legislation, the Council confirmed that while staying on the single tax of the third group at the rate of 2%, the registration limit amount for which the company has the right to register invoices should have increased.

Another company was not on the simplified taxation system, meanwhile, due to technical and communication reasons, information on 16 customs declarations and adjustment sheets was not transmitted to the Tax Service.

The Council brought up cases for consideration of the Expert Groups with the State Tax Service and the State Customs Service.

As a result, thanks to the effective work of Expert Groups and BOC facilitation, the Tax Office reflected the registration limit amount of the supermarket chain in SEA VAT in the amount of UAH 21.6 mn. according to 112 customs declarations. The STS authorities also recalculated the registration limit of the hypermarket on the second complaint for the VAT amounting to UAH 2.7 mn. according to 16 cargo and customs declarations.

## Certificate for Export of Fish Products and Invoices for UAH 1.5 mn: a Story of Albacor LLC



One of the biggest fish and seafood importers in Ukraine successfully exporting fish products in the EU and the USA – Albacor LLC turned to the Business Ombudsman Council with two complaints at a time.

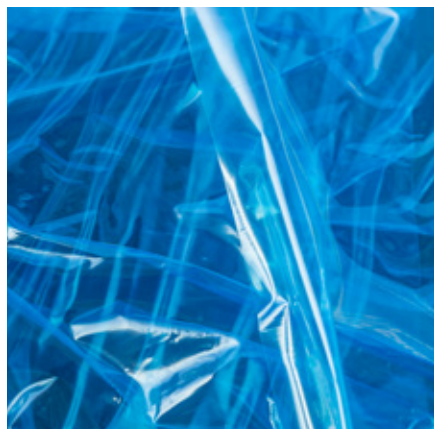
The company got a refusal from State Service of Ukraine on Food Safety and Consumer Protection in Zaporizhia Oblast to issue a health certificate for fish products export. The state consumer protection service reported that nothing was known about the company's production facilities and in addition noted that the latter ignored its requests.

At the same time, the enterprise got trouble with the tax authority: the State Tax Service did not enforce the court judgement on VAT invoice registration amounting to UAH 1.5 mn. Such situation made the company ask the Council for help to unlock its operation and restore cooperation with international partners as soon as possible.

Taking into account that during 2022-2023 business complaints related to delay in issuing or preparing permissive documentation, particularly, from Zaporizhia Department of the state consumer protection service, became more frequent and systemic, the Council could make sure of during a separate meeting with Zaporizhia entrepreneurs. The Council sent the state consumer protection service a letter and had a personal meeting with its head. BOC emphasized that due to actions of the regional state consumer protection service thousands of enterprise's employees could lose their job, while artificial obstacles to issuing a permission certificate to the company being a well-known of fish products exporter in the world market, negatively affected the image of Ukraine. Besides the Business Ombudsman brought up the complaint for consideration of the Commission for considering problematic business relationship issues with the State under the President of Ukraine. Simultaneously, a meeting of the Council's Expert group with the State Tax Service of Ukraine was held, where an issue of non-enforcement of the court decision was discussed.

Eventually thanks to BOC persistent communication with state bodies the two company's complaints got positive outcomes: the state consumer protection service management in Zaporizhia Oblast issued the certificate for fish products export to the company, and the STS enforced the court decision on VAT invoice registration for the amount of UAH 1.5 mn.

## Long Fight for Data Tables: a Story of Odesa Company



The Odesa company, which manufactures various products from polyethylene and polypropylene, complained to the Business Ombudsman Council that the regional tax office did not accept the tax payer's data table.

The complainant has been submitting data tables since the end of 2022, but the Commission of the regional level under the STS in Odesa region (Commission of the regional level) refused to accept them each time for various reasons. In particular, in the first refusal to take into account the data tables, tax officials indicated that the types of activities given in the table did not correspond to the company's existing fixed assets. Later, the reason for the data table non-acceptance was existing tax information, which indicates that the company carries out risky operations. In the last refusals, the Commission of the regional level referred to paragraph 14 of the Decree No. 1165, which contains a general provision on the need to submit a table of data with an explanation, which indicates the type of activity, with reference to the tax and other reporting information of the taxpayer.

While processing the company's complaint, the Council turned to the communication platform of the STS in Odesa region and organized a meeting with its responsible officials. As a result of the meeting, it was found that the reason for not accepting the complainant's data tables was the negative VAT value and the lack of payment of income tax. The tax office reported that the prerequisite for taking into account the data tables is that the company must show positive dynamics in paying the specified taxes within the next 3 months from the date of the meeting.

The complainant provided the Council with an explanation and the supporting documents specifying that the negative value of VAT had a justified origin, namely formed due to the import of production equipment and raw materials for the production of goods.

2 months later after the meeting with the regional STS office, the company showed positive dynamics in reducing the negative value of VAT, and following the Council's recommendations the complainant resubmitted the data tables. However, based on the results of their examination, the regional tax office once again refused to accept them, this time the reason was that the company cooperated with a supplier, which, in the opinion of the STS, was a risky one. The complainant explained that cooperation with this counterparty took place long before it was recognized as risky. Therefore, such a situation clearly demonstrated the problem of virality of the



risky status of tax payers, that a whole chain of other supposedly risky tax payers can be artificially spun through one risky counterparty.

Since at that time the administrative appeal of decisions concerning non-acceptance of data tables had already been introduced, the Council recommended the complainant to use this opportunity. At the same time, previously (before the company submitted a complaint to the central level commission), the Council decided to discuss the complainant's situation at the meeting of the Expert group with the State Tax Service of Ukraine (STS of Ukraine).

Considering that at the meeting with the STS, the latter had no objections about the complainant's activities, the company, following the Council's suggestion, appealed to the central level commission about the tax decision on non-acceptance of data tables.

The result was ultimately positive – the STS satisfied the company's complaints and accepted the data tables. In addition, the complainant informed the Council that, after BOC involved in solving its problem, its tax invoices were registered with no obstacles. In particular, the company revealed that while the Council was supporting the company and investigating the case, it managed to register invoices for UAH 2.2 mn.

## Ivano-Frankivsk City Council Issues a Permit for Placing Retail Outlet



An enterprise from Ivano-Frankivsk complained to the Business Ombudsman Council. The company won a state grant for business development. As part of the project implementation, the company had to obtain a permit for placing a retail outlet from Ivano-Frankivsk City Council Department of Urban Planning and Architecture (City Council Department). However, the City Council, having received the application in June 2023, only a few months later refused issuing such a permit to the company due to errors in the submitted documents. In September, the complainant submitted a revised package of documents to the City Council Department through Administrative Services Provision Centre (TSNAP) to obtain a permit. However, the local government authority did not consider documents with corrected errors.

Having accepted the complaint in December 2023, the Council turned to Ivano-Frankivsk City Council Department and asked to immediately and impartially, according to the procedure of the Law "On the Administrative Procedure", study the complainant's full package of documents and make a legal decision.

The Council's intervention had a considerable impact on the Department's representatives: the parties managed to communicate effectively and understand the situation online. During the joint review of the company's complaint, thanks to the Council's mediation, the City Council Department and the complainant agreed on the algorithm of further actions for the company to receive administrative services. In particular, the City Council Department had to formalize its objections to the complainant's package of documents, while the complainant – to re-apply using a new form, having preliminarily agreed on an offset to the adjacent area of the educational institution and gas networks.

Already in January 2024, the City Council Department informed the company how it should adjust the outlet layout.

In the end, the company submitted an updated package of documents, and in February, the City Council Department issued the long-awaited permit for placing the retail outlet.

## Lviv Customs Drops the Decision to Adjust the Customs Value of Goods

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A private enterprise from Lviv Oblast approached the Business Ombudsman Council. The company reported that Lviv Customs adjusted the customs value of imported fiberglass mesh (country of origin – China).

The company submitted all the necessary documents to the customs, particularly, the foreign economic contract, invoices and bills of lading. The customs also demanded additional documents from the company, which the complainant quickly provided. However, it did not resolve the situation, as the customs reported a lack of information on identical imported goods and accordingly adjusted the customs value of goods and refused clearing them. The company challenged the customs officials' decision to the State Customs Service (SCS) and asked BOC for assistance.

The Business Ombudsman Council took part in a video call with the participation of the State Customs Service and Lviv Customs to jointly consider the circumstances of the case. In addition, the Council brought up a private enterprise's complaint for consideration of the Expert Group with the SCS, where the Deputy Business Ombudsman also participated.

In the end, during the joint review of the complaint, the private enterprise agreed with the customs that it should add to the documents a conclusion on value characteristics of goods, prepared by a state specialized expert organization. The company provided the requested conclusion. Finally, a positive result was achieved. Lviv Customs dropped its decision to adjust the customs value of the fiberglass mesh. With the Council's facilitation, the complainant managed to defend the customs value he indicated and pay only those taxes he had to pay. In case of customs value adjustment, the VAT amount would be UAH 116k more.

After closing the case, the company informed the Council the following batch of goods had been delivered already without adjusting the customs value.

## Tax Authority Agrees to Drop a Company's Debt



A company engaged in the trade of machinery for the mining industry filed a complaint with the Business Ombudsman Council. The reason for this was the tax authorities' decision to charge the company with a tax debt of 84k UAH, which arose as a result of an audit in 2023.

The company initially attempted to challenge this tax notification decision (TND) independently, first through administrative procedures and then in court, strictly adhering to the appeal deadlines. This is important because timely challenging of TND means it remains unagreed, i.e., it is not subject to payment and does not acquire the status of tax debt until the matter is finally resolved.

Thus, on the eve of the New Year, the company filed a lawsuit through the e-court to the Kyiv District Administrative Court (KDAC) to declare the TND illegal. Although the lawsuit reached the court, it was not registered, and the case number was not assigned. As a result, at the beginning of February 2024, without any information regarding the appealing of TND in court for over two months, the Kyiv tax authorities decided it was time to collect the debt from the company.

With the support of the Business Ombudsman Council, the company immediately decided to use the administrative procedure and challenged the tax demand of the Kyiv tax authorities. The Council sent a letter to the Head of KDAC, reminding about the reasonableness of the deadlines in procedures such as registering a lawsuit and assigning a case number. The complainant's lawsuit regarding the TND had remained unregistered for over 40 working days. Meanwhile, the

actions of the tax authorities towards the company were hasty, as highlighted by the Council during the administrative complaint hearing.

Furthermore, the Council discussed the case and the issue of delays in procedural decisions at KDAC during the regular monthly meeting of the Expert Group with the State Tax Service of Ukraine (STS of Ukraine).

Already in March 2024, KDAC issued a ruling to open proceedings in the complainant's administrative case, and the STS of Ukraine decided to adjust the tax debt charged to the company. Now, the court will decide the fate of the 84k UAH charged.

## The Agricultural Company's Right to Budget Refund and Negative VAT Value Worth UAH 35 mn Defended



The Business Ombudsman Council received a complaint from an agricultural company from Kyiv Oblast. This is not the first time the company has approached the institution and challenged tax audits findings.

This time, the Main Department of the STS in Kyiv Oblast denied the whole budget refund and the negative VAT value amounts for the agricultural company stated in the declaration. The company also received a UAH 2 mn fine according to audit results. This position was based on the fact the agricultural company did not provide some documents, in particular, related to grain storage.

While processing the company's complaint, the Council found the agricultural company tried to provide the necessary documents during the inspection, and also provided documents with objections to the inspection report. Thus, the Council drew attention to the point that facts of failure to provide documents before the audit were unconfirmed.

The Council also noted the information provided by the agricultural company was sufficient to confirm withdrawn budget refund and negative VAT value amounts.

Therefore, the Council sent a letter to the State Tax Service of Ukraine (STS of Ukraine) upholding the agricultural company's position. The Council also participated in the administrative complaint consideration at the STS of Ukraine together with the complainant and his lawyer.

As a result, at the level of the STS of Ukraine, the Council managed to defend the company's right to a budget refund and a negative VAT value totalling over UAH 35 mn. In addition, a million fine for the agricultural company was dropped.



## Tax Dispute Over Computer Software: IT Company Case



The capital's tax authority conducted an audit and denied the IT company's expense claims for profit tax amounting to more than UAH 15.5 mn. As a result of the audit, the complainant also received a fine of UAH 315k.

The tax officials refused to recognize software development expenses and the purchase of other services from individual entrepreneurs.

The tax authorities stated that the IT company had not obtained a software copyright certificate and had also sold the piece of software. Therefore, in their opinion, the company could no longer continue to attribute the cost of such software to expenses. As for other services from individual entrepreneurs, the tax officials noted that the company did not provide documents to confirm cooperation with these contractors.

Having taken up the complaint, the Business Ombudsman Council sent a written request to the State Tax Service of Ukraine (STS) and supported the complainant's position.

The Council pointed out that the IT company rightfully continued to attribute the cost of the software to expenses for tax records, as the company did not transfer exclusive intellectual property rights for the software to anyone. The legislation does not require obtaining an intellectual property rights certificate for software to attribute its cost to expenses. The Council also supported the complainant regarding filling in documents correctly and cooperation with individual entrepreneurs.

The BOC investigator participated in the administrative review of the complaint on tax notifications-decisions (TNDs), involving tax officials, the complainant, and his lawyer. As a result, the STS agreed with the IT company's right to account for software development expenses in tax records and canceled the company's fine.

Thus, according to the Council's calculations, it managed to defend more than 60% of the expenses amount previously disputed by the capital's tax officials.

## How the Business Ombudsman Council Helps a Mirror Importer Resolve a Dispute With Customs

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The Business Ombudsman Council received a complaint from a mirror-importing company. It reported issues with customs authorities, who consistently adjusted the customs value of mirrors to a higher rate than the company had declared. Because of this, the importer had to pay more duties and VAT. These actions were carried out regularly by customs, significantly increasing the company's expenses. Moreover, this situation jeopardized the normal operation of the company.

The company attempted to resolve the issue with customs independently. It provided all necessary documents proving the true value of the goods, but customs continued to increase it. The complainant even went to court and won several cases against customs authorities, but with each new supply of mirrors, the same situation repeated. Due to these constant legal battles, over a million of hryvnias of the company's funds were tied up in the judicial system.

Exhausted by this draining struggle, the company decided to turn to BOC for assistance.

After carefully examining the complaint and all documents, the Business Ombudsman Council reviewed the customs authorities' arguments for adjusting the customs value. BOC concluded that the customs position was insufficiently substantiated, while the complainant had provided evidence supporting the declared customs value.

Furthermore, the Council noted that customs had unjustifiably used the fallback method for determining customs value. Judicial precedent in similar situations has consistently favored businesses.

Considering all these factors, the Council prepared an official letter to the State Customs Service of Ukraine, requesting to review the case with the participation of the company representatives and the Council itself. The BOC's intervention brought more attention to the case, and the position was thoroughly conveyed to the State Customs Service.

As a result, the State Customs Service canceled the decision to adjust the customs value of goods. This means that the initial customs value declared by the complainant was recognized as correct, and additional customs charges were canceled.



## When the Law Is on Business's Side: Tax Authority Cancels Half-Million Fine



A company specializing in real estate leasing approached the Business Ombudsman Council. The company disagreed with the results of a tax audit.

The capital's tax officials concluded that the company untimely registered the invoices drawn up on the eve of the Russia's full-scale invasion and in the period until January 2024. The enterprise attempted to appeal the tax audit results independently. However, the tax authority did not change its decision and also imposed a fine of over half a million hryvnias on the company.

During its investigation, the Council discovered that the company had already paid a fine for late registration of tax invoices. The tax authorities, however, conducted a second audit and essentially doubled the fine. Furthermore, the Council found that the tax authority had erroneously applied for an increased fine for late registration of invoices related to transactions involving the use of non-current assets.

The Council sent a letter to the State Tax Service of Ukraine (STS) and supported the company's position. Additionally, the Council participated in the review of the complaint via video conference. The Council noted that the Tax Code prohibits penalizing an individual twice for the same tax violation, especially considering that the company had already paid its initial fine.

Consequently, with the Council's assistance, the STS decided to cancel a significant part of the penalties in the sum of UAH 539k which amounted to 87% of the total amount.

## VAT Legacy: Chronicle of a Battle With the System for the Right To Refund



A factory approached the Business Ombudsman Council with a complaint after finding itself in an atypical situation for which tax legislation and the system had no answer. The story began in 2020 when the factory faced an unusual problem after acquiring another company (a research and manufacturing society). This company had the right to VAT budget refunds and the transfer of a negative value in subsequent periods, which the tax service refused. The factory, as the legal successor of the society, appealed the decision of the state body. The court ruled the tax

service's refusal was illegal. However, after the court decision, the complainant faced problems with its practical implementation. The current legislation does not provide for the possibility of VAT refunds to a legal successor based on applications formally submitted by another taxpayer. Moreover, in this situation, there were certain technical difficulties with the correct transfer of overpayment balances between the taxpayers' account cards. Unable to solve the problem independently, in January 2024, the complainant turned to the Business Ombudsman Council for help. It turned out that the regional tax authority, where the acquired enterprise was registered, since March 2021 had ten times requested technical and legal assistance from the central apparatus of the State Tax Service (STS). However, by the end of 2023, no responses had been received from the STS. Similarly, another tax authority, where the plant is already registered, contacted the STS in October 2021 and twice at the end of 2023, but did not receive a response. The Council accepted the complaint for consideration and submitted it for discussion to the joint Expert group with the STS. As a result of this cooperation, a solution was found: the tax service thoroughly worked on the issue and agreed on a method to transfer the indicators to the factory's integrated card. This meant that with BOC assistance the factory officially received the right to use the VAT overpayment.

## Data Tables Accepted – Tax Invoices Unblocked



It is not the first time that a Ukrainian plastic products producer has complained to the Business Ombudsman Council. A previous complaint concerned data tables that tax officials had refused to accept. However, with the assistance of the Council, the tax office accepted tables then and registered the company's invoices. Nevertheless, sometime later, the State Tax Service of Ukraine (STS) canceled the previous decisions of the regional commission regarding acceptance of data tables. The company once again asked the Council to intervene and help to settle this situation.

The Council submitted a complaint for consideration by the Expert Group with the STS of Ukraine. As a result, one managed to find out that tax officials had questioned the company's counterparty.

In particular, the companies conducted similar business, and several persons were listed among the founders and employees of both companies that created doubts for the tax office. At the same time, during another table's submission, the company added an explanation regarding the correlation of its own activities with those of its counterparty. Thus, the complainant explained that indeed the companies had been related to each other to some extent, but both were real producers, used different manufacturing techniques and had the necessary resources for conducting their activities. However, this time, the regional tax office rejected the tables referring to a risky counterparty.

Then the Council once again discussed the situation of the complainant with the regional commission and the STS of Ukraine commission. As a result of the complaint processing, which lasted more than 6 months, the tax office eventually accepted 4 tables of the company.

## Overcoming Tax Obstacles: the Case of the Salt Plant

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The sole rock salt producer in Ukraine faced the issue of having been included in the list of risky taxpayers. In March 2024, the Main Department of the State Tax Service in Zakarpattia region classified the company as a risky taxpayer. The company promptly submitted explanations and necessary documents to cancel its risky status.

However, despite the provided explanations and documents, the tax authority repeatedly changed the grounds for their decision and kept the company on the list of risky taxpayers. It led to new decisions in April and May 2024, having actually blocked the company's operations.

Having faced such pressure, in May 2024, the company appealed to the Business Ombudsman Council. The Council concluded that the company had provided convincing explanations to address the tax authority's doubts about "risky" operations.

The Council, having taken on the case, organized a meeting with representatives of the State Tax Service of Ukraine within the framework of the Expert Group. At the meeting, tax officials finally voiced a full list of remarks on the taxpayer's activities. They concerned discrepancies in rent payments and accumulation of

inventory. As it turned out, the tax authorities' main doubts were related to the inventory for which the VAT tax credit was formed. Therefore, the local tax office tried in every way to verify whether the taxpayer actually had inventory in the declared volumes.

BOC, for its part, noted that the circumstances that the tax authorities were trying to clarify might be subject to a tax audit and couldn't be established within the framework of considering explanations about non-compliance with risk criteria. The same doubts that were previously mentioned in the decisions on the company's risky status had been successfully refuted.

Finally, in July 2024, after the company submitted additional explanations and documents, the tax authority removed the company from the list of risky taxpayers. The local tax office still decided to conduct an unscheduled audit of the taxpayer.

The Council always advocates for a civilized dialogue between business and government and once again emphasizes that the procedure for recognizing a taxpayer as risky should not substitute a tax audit. If the tax authority indeed has reasonable doubts about the taxpayer's activities, the legislation provides an opportunity to clarify all necessary circumstances in the format of an audit, which does not lead to a complete blocking of the company's operations.

## The Business Ombudsman Council Helps an Entrepreneur Overcome Bureaucratic Obstacles



In September 2023, an entrepreneur started her building repair and reconstruction business. Everything was going according to the plan: she registered as VAT payer, gradually began hiring employees, purchasing equipment, and signed her first big contract. However, the entrepreneur soon faced an unexpected obstacle.

The tax service refused to accept the VAT payer data table, which was necessary for unhindered registration of tax invoices for repair work. The entrepreneur submitted such a table weekly throughout October, but each time received a refusal with the vague wording "other; inconsistency of activities with fixed assets". The situation escalated when the registration of the first advance tax invoices was blocked.

Unable to reach a documented understanding with the regional tax office, the entrepreneur appealed the refusal of the data table to the central level commission, but also without success – then the reason was insufficient labor resources.



Convinced otherwise, the entrepreneur turned to the Business Ombudsman Council for help. Our team thoroughly examined the situation and found that the tax office might not have taken into account a number of important factors: the business was just starting its activities, the staff was expanding dynamically, and the salary levels were growing. Considering the time gaps between real business processes and tax reporting (monthly for VAT; quarterly for employee income and hours worked), the tax office did not see the full and current picture.

The Council initiated a review of the case with the Main Department of the State Tax Service, and the latter recorded the true circumstances of the case. As a result, positive decisions were made on the registration of suspended advance tax invoices and acceptance of the table by the regional commission. However, after a week and a half, the entrepreneur received extremely unpleasant news in her electronic office – the central level commission cancelled the table accepted by the regional tax office, again for “other” reasons: in addition to the inconsistency of fixed assets, the central commission also referred to the lack of information about the company’s activities with reference to the reporting. This forced the Council to bring up the issue for consideration at monthly Expert group meeting with the State Tax Service of Ukraine.

After processing the submitted materials and discussing the situation at the expert group meeting, the State Tax Service of Ukraine confirmed the absence of any remarks on business activities – immediately afterwards, the entrepreneur resubmitted the data table, which was finally accepted at last before the New Year. The problems with registering tax invoices for the payer were resolved.

## Customs Routine: with the BOC’s Assistance, a Children’s Goods Manufacturer Defends the Customs Value of Soda



A Kyiv-based children’s goods manufacturer filed a complaint with the Business Ombudsman Council against Lviv Customs.

It was revealed that the customs authorities had adjusted the customs value of imported soda, but their justification lacked detail. The company tried to confirm the declared customs value with documents at its own discretion.

However, this did not affect the opinion of Lviv Customs. The customs authorities stated discrepancies in the documents and adjusted the customs value.

The Council supported the complainant's position. During the consideration of the complaint, the State Customs Service (SCS) voiced concerns that had not been previously mentioned either during the customs clearance or in the decision of Lviv Customs to adjust the customs value. It occurred because during the administrative appeal procedure, the SCS conducted a comprehensive review of the documents submitted for customs clearance and provided its own assessment, not limited to the regional customs office's conclusions.

BOC, for its part, promptly assisted in substantiating the accuracy of the provided documents. The Council also helped to coordinate the documents and explanations that the company later additionally submitted to refute the doubts of the SCS.

As a result, the company defended its position, and the SCS canceled the decision to adjust the customs value.

## Getting Rid of Unjustified Tax Debt: the Case of Fuel Distributor



A fuel distributor received a tax order for urgent payment of a debt of almost UAH 150k.

The company filed a lawsuit with the Kyiv District Administrative Court and requested to cancel the "unlawful" tax assessment notice (TAN). However, the Main Department of the State Tax Service in Kyiv included the penalties from the TAN in the tax debt of UAH 150k and demanded its payment according to the tax order. At this stage, the company filed a complaint to the Business Ombudsman Council.

The legislation stipulates that in case of appealing a tax assessment notice in court, monetary obligations are considered unagreed until the court decision comes into legal force. After examining all the complainant's materials, the Council confirmed that the case proceedings were supported by the corresponding court ruling on opening judicial proceedings.

The Council submitted the complaint for consideration to the Expert Group of the Main Department of the State Tax Service in Kyiv. A positive decision followed immediately! With the BOC's assistance, tax officers updated the data in the taxpayer's integrated card and withdrew the tax order for debt payment.



## From Procedural Violations to Positive Changes: the Story of Fuel Distributor

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A company with foreign investments, a fuel distributor in Ukraine, faced significant challenges within a criminal investigation. During the lengthy pre-trial investigation initiated by the Bureau of Economic Security (BEB) against the company, it encountered several procedural violations by the pre-trial investigation body. In particular, BEB detectives failed for months to comply with about a dozen of investigative judges' rulings, which required them to reconsider the company's petition for conducting investigative (search) and procedural actions.

Due to this situation, the company decided to seek assistance from the Business Ombudsman Council. BOC sent an official letter to the Prosecutor General's Office and BEB, drawing their attention to the fact that BEB detectives had not responded promptly to the company's requests.

The BOC's intervention yielded swift results. Within a few days after the Council's involvement, the company's lawyers received several responses in the form of letters and rulings following the review of previously submitted applications. Although not all responses fully satisfied the company, the mere fact of in communication improvement was perceived as a significant progress.

Moreover, the BOC's attention to the case resulted in significant changes in the investigation process. Two months after the Council's intervention, a senior BEB detective closed one of the criminal case episodes due to absence of a crime in the actions of the company's management.

Representatives of the company noted that it was the Business Ombudsman Council's assistance that contributed to improved communication with BEB, accelerated the consideration of their applications, which led to positive changes in the pre-trial investigation of criminal proceedings.

## Tax Obstacles After a Court Victory: the Path to VAT Reinstatement



In April 2023, the tax service annulled a company's VAT payer registration. Tax officials stated that the company had been submitting declarations with zero indicators throughout the year.

The company challenged the tax authority's actions in court, explaining that it could not operate fully due to the declaration of martial law and its director departure abroad. Specifically, due to the onset of the full-scale invasion, plans for leasing premises were postponed until 2023. It was then that the company signed a lease agreement and was just beginning to deploy its activities.

In August 2023, the court declared that the tax authority's decision was illegal, stating that the zero-revenue declarations did not indicate passive behavior of the taxpayer but were caused by objective circumstances. The court ordered the tax authority to reinstate the VAT registration and maintain the company's tax indicators. This decision was upheld by the appellate court, while the cassation court twice refused the Main Department of the State Tax Service (MD STS) to initiate proceedings.

However, the victory in court was only the beginning of the story. The tax authority was slow on complying with the court's decision, citing various bureaucratic reasons. Among these obstacles, the regional tax office even noted that the case materials were under review by the central apparatus of the STS. At the same time, the tax authority could not provide specific reasons for not executing the decision. The company turned to the Enforcement Service in an attempt to assert its rights.

When these steps yielded no results, the company sought assistance from the Business Ombudsman Council. The Council carefully examined the case and presented it for discussion to the Expert Group of the State Tax Service of Ukraine. During this meeting, the Council supported the complainant's position, emphasizing in discussions with tax officials that the court decision, which had come into legal force, was mandatory for execution.

As a result, this case was resolved successfully: the tax authority executed the court decision, restoring both the company's VAT registration and indicators in electronic VAT administration system (SEA VAT).

It is worth noting that, despite the norms of the tax legislation of Ukraine, the technical possibility of restoring indicators in the SEA VAT after the court's cancellation of the decision to annul VAT payer registration was developed by the State Tax Service only at the end of last year, in response to numerous appeals of the Council over more than two years in the case of another complainant.

## 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 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

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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.

# Feedbacks

When an investigation is completed (whether the case is successfully resolved or not), we send each complainant a feedback form to gather their opinion on our work.

## Complainants evaluate the Council's assistance based on the following criteria:

Client  
support and  
attentiveness

Understanding  
of the complaint's  
nature

Quality of  
service  
provided

Feedback from complainants helps us identify areas for improvement.

In 2024,

**96%**

of complainants were satisfied with  
their cooperation with the BOC.

At this important time for business, when it is not always possible to prove one's right to the tax service and the only way out seems to be filing a lawsuit in court, the Business Ombudsman Council comes to rescue. This is exactly the situation that our company faced, and as always, the BOC team helped to solve our problem in the shortest time possible. Your support is not only very important, but also very effective.

**Ukrainian Agro-Industrial  
Transport Group LLC**

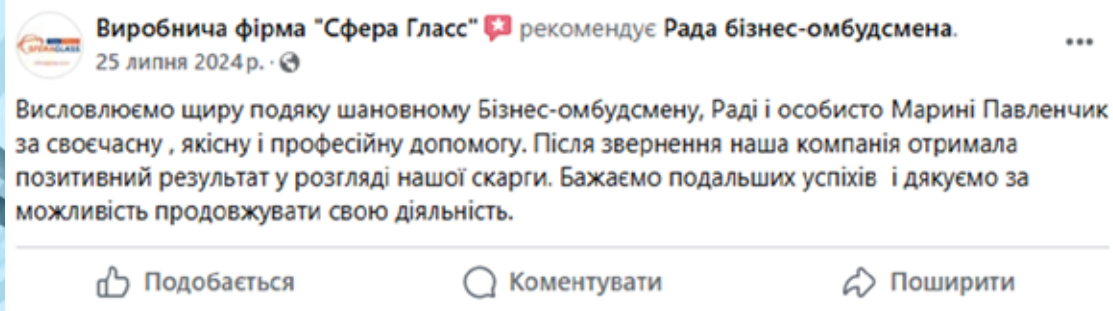
We express our gratitude to the Business Ombudsman Council for their assistance in solving two important cases regarding numerous violations of legislation and pressure on the company from the State Service of Ukraine on Food Safety and Consumer Protection in Zaporizhia region and the failure of the STS of Ukraine to enforce the court's decision regarding the compulsory registration of tax invoices. We are sincerely grateful for the proactive attitude towards Ukrainian business in such a difficult time for the country.

**Albakor LLC**

We express our sincere gratitude and appreciation of the fruitful work of the Business Ombudsman Council. Following the review of our complaint, the company had the opportunity to ascertain the effectiveness of the Council's operations, as well as its fair, unbiased, and timely consideration of complaints by the Business Ombudsman aimed at effective protection of the rights and interests of business entities before the state. We also appreciate the comprehensive, objective, and direct investigation conducted by the Business Ombudsman Council into all available evidence concerning the disputed issue.

**A mining company**

CEO of Smart Tech Industry LLC Oleksandr Rudenko personally thanked the Business Ombudsman Council for its help during a personal meeting with the Business Ombudsman Roman Waschuk, his Deputy Tetyana Korotka and the investigator Maryna Pavlenchuk authorized in the case. The Council helped the company to register a new industrial park in Poltava Region in the Register of Industrial Parks.



We would like to thank you for your assistance and productive work in helping to resolve our issue. With your help and direct involvement, the criminal proceedings were closed and the seizure of the company's property was lifted.

**Ukrayinska Syrovyna LLC**

We express our gratitude and deep appreciation to the team of the Business Ombudsman Council. Your authority, coordinated, high-quality, and timely work of the team allowed us to achieve a positive result. Thanks to your high professionalism, we managed to be heard by the state body.

**Ghelamko Ukayina LLC**

# Supporting business in overcoming consequences of russia's full-scale invasion of Ukraine

Strengthening Ukraine's private sector is key for its successful post-war renewal. Realizing it, the Business Ombudsman Council is expanding its activities aimed at supporting business in overcoming russia's military aggression consequences and European integration of Ukraine.

If during 2022-2023 we were involved only in some activities to support Government recovery events and plans, then already in 2024, the need for relevant systemic work to support the private sector became apparent. To do it, we reviewed

traditional areas of work and introduced Policy & Recovery direction and set up its team, which brought together economic policy, law and engineering experts. Led by the Deputy Business Ombudsman Tetiana Korotka, the team will help business overcome challenges of the war, implement reconstruction projects, particularly critical infrastructure ones and will also contribute to shaping fair and transparent conditions for companies participation and attracting investment in recovery processes.

## Key focus areas:

Involving the private sector in overcoming immediate consequences of the war and long-term renewal of Ukraine

Managing risks and improving conditions for transparent private sector engagement

Supporting the private sector in implementing complex (including infrastructure) projects.

After harmonizing all the administrative processes, a new team was able to start working in September 2024. The Business Ombudsman Council focused on communications with a wide range of stakeholders, defining urgent challenges for the private sector in renewal and adjusting operating processes in considering recovery-related business cases.



## Outreach to state-owned stakeholders



Photo with the Head of the Recovery Agency, Serhiy Sukhomlin

To create predictable and clear rules for engaging the private sector in reconstruction and joining efforts with key government bodies involved in restoration, back in 2023 the Council had concluded Memoranda of Partnership and Cooperation with the Ministry for Restoration (since 2023) and the Restoration Agency (extended at the beginning of 2025).

During the reporting year, the Policy & Recovery team had numerous meetings with the Ministry for Restoration and the Restoration Agency, keeping up with relevant business recovery issues and consulting while conducting research to clarify interaction areas with government bodies.

In an effort to create favorable conditions for doing business on Ukraine's path to the EU, the BOC is involved in **negotiating (working) groups within the European integration process**, particularly on freedom of enterprise and services; taxation; entrepreneurship and industrial policy as well as and public administration reform.



In addition to business associations traditionally being the BOC's stakeholders, in 2024 the Council expanded its cooperation with large industry business associations, such as the **Confederation of Builders of Ukraine**.

The Council's representatives 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.





## Regional and international cooperation

### Ukraine Recovery Conference (URC)

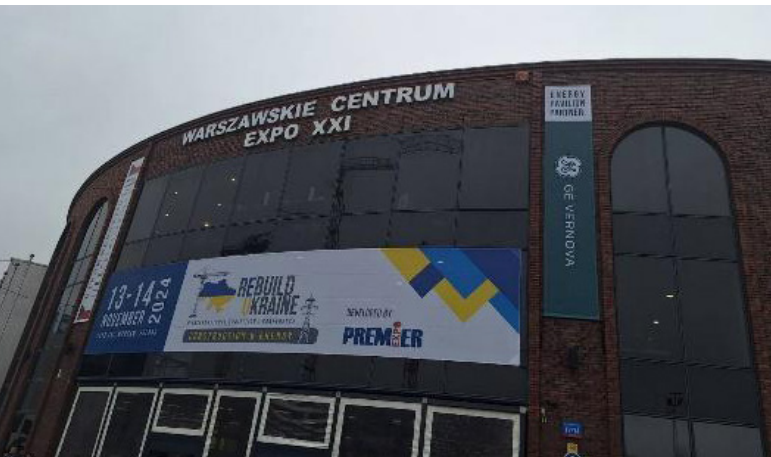
The Business Ombudsman Roman Waschuk and his Deputy Tetiana Korotka participated in the Ukraine Recovery Conference (URC) 2024. They also attended a number of open and closed-format events held alongside the main part of the conference.

The Business Ombudsman Council has been consistently involved in Ukraine's recovery efforts, engaging the private sector and contributing to strategic communications within the framework of the Ukraine Recovery Conference (URC) in 2022–2024. We have participated in the preparation of events and in international consultations leading up to the conferences in Lugano, London, and Berlin.

During the conference, international partners once again reaffirmed their unified support for Ukraine – both in resisting the full-scale aggression by the Russian Federation and in Ukraine's aspiration to become a full-fledged member of the European community. Ukraine signed over 100 cooperation agreements with international partners, including financial and energy institutions.

URC sends a strong and clear signal of the international community's steadfast and determined support for Ukraine, demonstrating a shared commitment to helping our country achieve a just recovery of its territorial integrity and a peaceful future.





## Rebuild Ukraine conference

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

### Within the framework of the conference, the Council's team:

- presented the Council's activities, particularly the Policy & Recovery direction, aiming to eliminate current obstacles to work, support and engage the private sector in overcoming consequences of aggression, implement reconstruction projects and create favorable conditions for attracting investment
- met with business from metallurgy, metalworking, energy, construction industries, as well as sustainable development, financial and consulting sectors
- met with representatives of Brandenburg federal district of Germany and Canadian province of Saskatchewan.



The Council also presented the work of the Policy & Recovery Team during its 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.**





## Private sector issues analysis in recovery projects

The complex of issues accompanying local and international business in current recovery efforts and these problems assessment in the long-term perspective were the focus of the BOC Policy & Recovery team.

The first systemic study was devoted to critical infrastructure restoration (Report “Challenges in Protecting and Restoring Critical Infrastructure Through Private Sector Engagement”). It was particularly this sector that was damaged and regularly attacked by Russia’s drones and ballistic missiles.

Since the beginning of Russia’s full-scale aggression, Ukraine’s critical infrastructure has suffered significant damage, causing almost \$155 bn in losses. Attacks on the energy sector threaten the economy, national security and vital sectors such as healthcare, manufacturing and logistics. Businesses are also facing serious challenges, as without stable critical infrastructure (CI) and clear rules of the game, it is impossible to develop and effectively implement recovery projects.

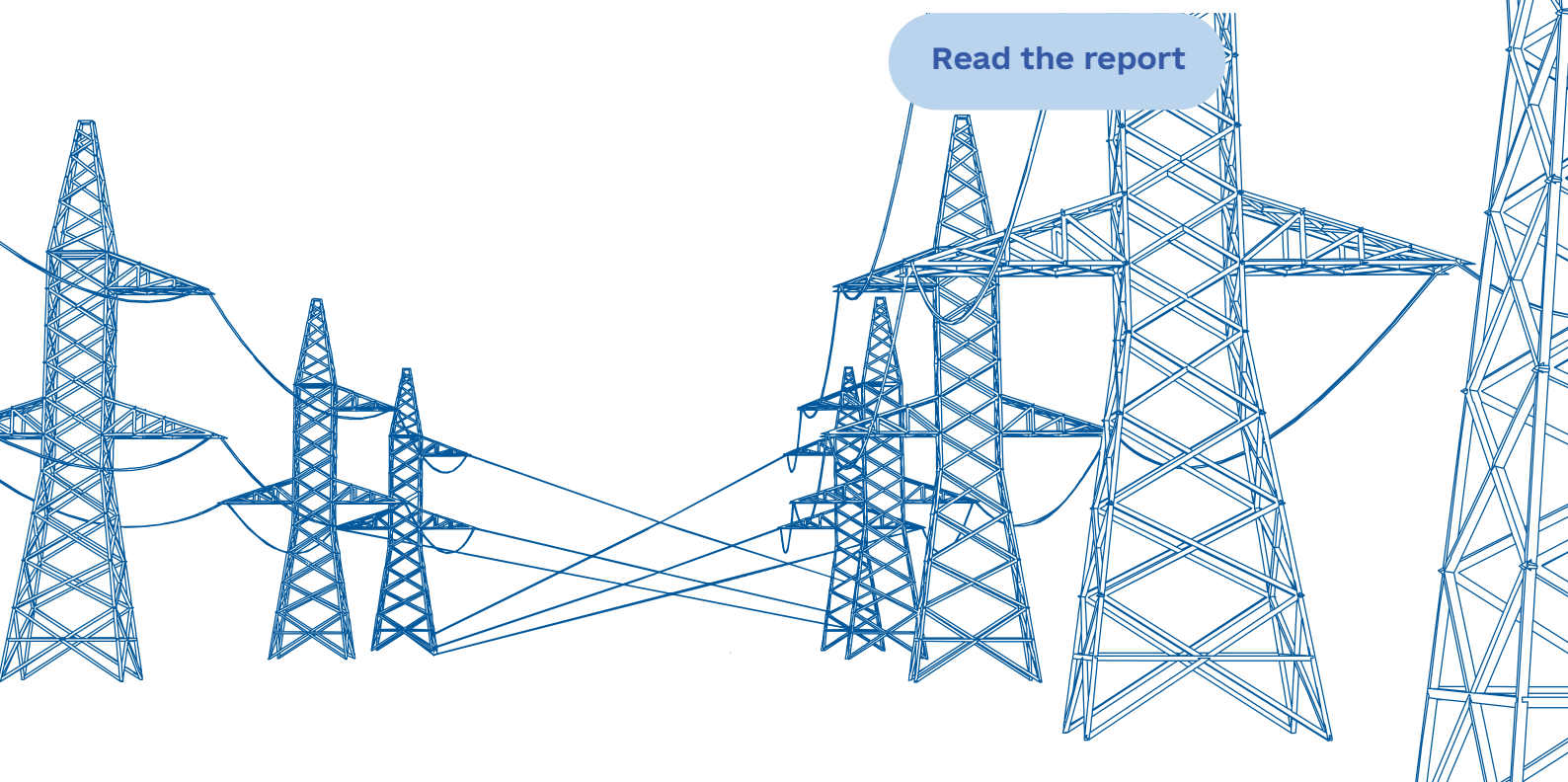
The Council’s study of critical infrastructure protection and recovery issues through private sector involvement was a logically important step to analyze



in-depth challenges of business in recovery and develop recommendations for increasing CI resilience. The Policy & Recovery team outlined legal and administrative barriers faced by businesses in the recovery sector and developed recommendations for stakeholders to facilitate private sector involvement in reconstructing and modernizing critical infrastructure.

We will share more details about the study findings and recommendations in our next quarterly report. Apart from that, we will share the results of the BOC’s survey “Ukraine at War: Business Environment Transformation and Investment Prospects”.

[Read the report](#)





## Reconstruction cases overview

Ukrainian business is constantly contributing to recovery (in the broadest sense) by actively participating in critical infrastructure, energy facilities, transportation networks, strategic enterprises and other important sectors' reconstruction. At the same time, lacking a sufficient legal framework for risky and accelerated processes, companies experience difficulties in obtaining payments for works performed, interacting with government agencies, legal uncertainty and administrative barriers.

The BOC's Policy & Recovery team began developing a practice of reviewing such business complaints, looking for tactical and strategic solutions to reduce systemic obstacles. It helps to improve regulation, financial mechanisms, and conditions for business involvement in the recovery process.

Below, you can get familiar with several cases from current practice showing common challenges for the private sector in the recovery process and actions taken.

## BOC's Policy & Recovery team practical cases

### Case 1: Blocked payment for completed works after customer's reorganization

At the request of Ukrinfracproekt, the Company developed a feasibility study and tender documentation for the national emergency call system. After the reorganization of the state customer, the Company's financial obligations were transferred to the state successor. The payment for the Company's services (over UAH 47 mn) was approved in December 2021, but the beneficiary company's bank was unable to process payment in UAH, as Ukrainian government bodies make payments only in the national currency. To resolve this issue, the company opened an account with a European bank, but in February 2022, the payment was suspended due to the full-scale invasion of Russia and budgetary obligations revision. Despite numerous appeals, the company failed to resolve the issue on its own.

The Council thoroughly analyzed all the documents and confirmed the substantiality of the complaint. Currently, the BOC is working with the Restoration Agency on possible ways to resolve the situation and make necessary payments.

## Case 2: Unpaid UAH 2 bn for protective structures construction

One of the largest construction companies approached the Business Ombudsman Council with three issues at once:

- 1) **The state's debt of over UAH 2 bn for performed works.** The company strengthened and protected critical infrastructure facilities in accordance with the government decree that expired at the end of 2024.
- 2) **Legal uncertainty** in implementing similar projects in the future. The lack of a clear legal mechanism threatened further business participation in the critical infrastructure restoration.
- 3) **Outdated methodology for determining the construction cost.**

The Council studied the complaint in detail, confirmed the systemic nature of problems and initiated formal procedures with the relevant state authorities. To address the systemic issue of the outdated methodology for determining the construction cost, the BOC not only publicly voiced the general issue, but also prepared technical recommendations together with business associations to bring the relevant regulatory framework in line with the current market situation. In its report on critical infrastructure, the Council also drew attention to legal uncertainty in implementing such projects, as the respective resolution was only in effect until December 31, 2024. On February 7, 2025, the Cabinet of Ministers adopted the Decree No. 142 taking into account this Council's recommendation and regulated the implementation of critical infrastructure restoration projects. **This is one of the first examples of solving a systemic problem of the private sector in the recovery process.**

## Case 3: Uncertainty in resuming concession activities

A company received a concession to manage state property back in 2020. Due to the war, the concession activity was effectively suspended, and the business found itself in an uncertain position. The concessionaire approached the state authorities with a proposal to set up a working group to coordinate the resumption of business activities and define mechanisms for compensating losses incurred. However, no specific decision was made yet.

The Council reviewed the submitted documents and communicated with the complainant regarding further actions.



## Case 4: Refusal to sign acceptance certificates after CHPP nationalization

A construction company was restoring a combined heat and power plant (CHPP) that had been almost completely destroyed by a missile strike. The work was carried out in extreme conditions: the company worked seven days a week, purchased materials at its own expense, and continued working despite coming under fire twice.

By September 2022, the company had managed to sign acceptance certificates worth UAH 4.2 mn out of a total advance of UAH 16 mn. However, after the CHPP nationalization, the new management refused to sign certificates for another UAH 11.8 mn.

The Council studied the complaint in detail, sent an appeal to the Ministry of Defense to set up a commission to review the case, and found out through business associations and the Restoration Agency that the problem was systemic. Considering this, the Council began preparing recommendations both for this company's case and for improving the legal and administrative processes of engaging businesses in critical infrastructure restoration. The prepared recommendations were sent to the Ministry of Energy. Further communication is ongoing to find possible mechanisms to resolve the situation.

Thanks to active communication with government bodies and business, developing recommendations and arranging discussions, the BOC helps create effective mechanisms for recovery projects implementation. The team continues monitoring the situation and is working on improving the regulatory environment necessary for further infrastructure development and private sector involvement.



# BOC as a platform for dialogue between business and the state

As an independent institution being equidistant from government authorities, the Business Ombudsman Council facilitates dialogue between business and the state. We help entrepreneurs address systemic issues and provide a platform for open discussions on pressing matters, working together with government agencies to develop effective solutions.

## 8.1 Roundtables with the Prosecutor General's Office

In January 2024, with the support of the Business Ombudsman Council, a meeting was held between the Prosecutor General's Office and leading business associations to discuss current challenges in business interactions with law enforcement, particularly under martial law.

The meeting served as a platform for open dialogue between law enforcement agencies and the business community regarding the protection of entrepreneurs' legal rights during investigative actions. Participants included representatives of the European Business Association, the American Chamber of Commerce, the Ukrainian League of Industrialists and Entrepreneurs, the Chamber of Commerce and Industry of Ukraine, the Federation of Employers of Ukraine, the Union of Ukrainian Entrepreneurs, the Association of DIIA.City Residents, UNIC, the Ukrainian Taxpayers Association, the Ukrainian Bar Association, CEO Club Ukraine, the Ukrainian Business Council,

and Member of Parliament Halyna Yanchenko.

Following the meeting, the Business Ombudsman Council and the Prosecutor General's Office agreed to hold such meetings with the business community quarterly to prevent unlawful pressure on entrepreneurs and seek solutions to pressing issues in business-law enforcement relations.







The second meeting between the Prosecutor General's Office and the business community, conducted by the BOC, took place in April 2024. The main topics were: business pressure and interactions with law enforcement agencies.

During the meeting, the Business Ombudsman presented the Declaration of Fair and Reasonable Administration, which lays the foundation for a partnership-based relationship between the state and business. One of the key principles was the "Consult First" approach, aimed at preventing mistakes rather than enforcing punitive measures. The Prosecutor General supported this initiative, emphasizing the importance of changes in law enforcement practices.

Additionally, during the meeting, the Prosecutor General signed updated Standards for Prosecutors in the Sphere of Investment Protection, which have become legally binding for prosecutors. The document incorporates BOC



recommendations, particularly regarding the protection of entrepreneurs from unjustified searches by law enforcement bodies.

The parties also came to a common position on the need for a transparent selection process for the leadership of the State Tax and Customs Services, as well as the reform of the Bureau of Economic Security (BEB).

The BOC supports the format of regular meetings with the Prosecutor General's Office and the business community and anticipates their continuation following the appointment of a new Prosecutor General.



## 8.2 Roundtable with the Miltech industry

To address the challenges faced by various business industries, particularly defence companies that contribute to resilience both on the frontline and in the rear, the Business Ombudsman Council hosted a business breakfast with leading representatives of the Miltech industry.

During the event, participants discussed the main challenges in the sector: unstable budgeting, bureaucratic barriers, difficulties in auditing government contracts, and outdated production standards that hinder the development of competitive technologies. Special attention was paid to issues related to public procurement in the defence sector, particularly the need for greater transparency and adaptation of regulatory procedures to modern realities.



As a result of the meeting, participants agreed to continue the dialogue on the effective involvement of businesses in strengthening the country's defence capabilities. Additionally, after analyzing the challenges faced by Miltech representatives, the BOC initiated an own-initiative investigation into tax problems for defence companies. The findings were presented in Q1 2025.



### 8.3 Roundtable "Rule of Law – Protecting Business in Tax Disputes"



The proper enforcement of court decisions is a cornerstone of the rule of law and a key factor in building business trust in the legal system. The Business Ombudsman Council held a roundtable on this topic, bringing together representatives of the Supreme Court, the State Tax Service, the Prosecutor General's Office, business representatives, and legal experts.

The Business Ombudsman Roman Waschuk emphasized that for the past 10 years, the BOC has supported entrepreneurs in tax disputes and

facilitated interaction between business and the state. The Supreme Court Judge Nataliia Blazhivska highlighted that fair tax administration was essential for the sustainable development of the country. Representatives of the judiciary discussed the importance of economic analysis in business transactions and the impact of bankruptcy on tax obligations.

The BOC team presented common issues related to the enforcement of court rulings, stressing that tax authorities must consider judicial precedents in their operations. Representatives of the State Tax Service noted that they are working on improving interactions with businesses and actively monitoring relevant court decisions.

Oleksii Boniuk, the Head of the Department of Criminal Law Policy and Investment Protection, underscored the need for a risk-based approach to tax disputes, aligning with the «Consult First» principle promoted by the BOC.

As a result of the discussion, participants agreed to continue the dialogue to develop solutions that will strengthen the protection of business rights.

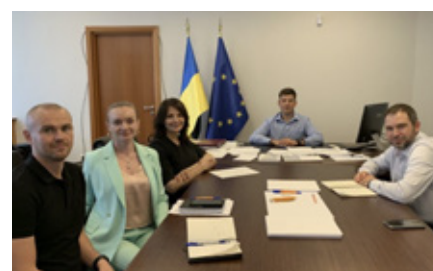
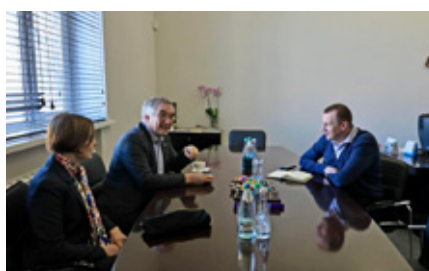
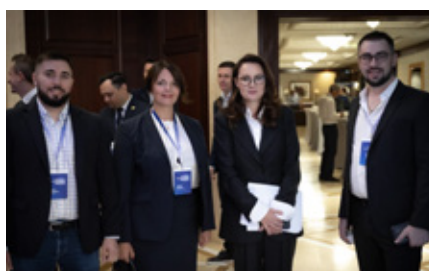
# Cooperation with stakeholders

## 8.1 Dialogue with government authorities

The Business Ombudsman Council focuses its efforts on establishing dialogue between businesses and government authorities.

To achieve this, the Council maintains constant communication with the Office of the President, the Government of Ukraine, the Verkhovna Rada, and key state institutions. This cooperation helps draw attention to pressing issues faced by entrepreneurs and facilitates finding solutions for their resolution.

- Office of the President of Ukraine
- Cabinet of Ministers of Ukraine
- Ministry of Economy of Ukraine
- Verkhovna Rada Committee on Economic Development
- State Tax Service of Ukraine
- Prosecutor General's Office
- State Customs Service
- Ministry of Health of Ukraine
- National Agency on Corruption Prevention (NACP)
- Asset Recovery and Management Agency (ARMA)
- Ministry of Justice of Ukraine
- Ministry for Restoration
- State Bureau of Investigation (SBI)
- National Commission for State Regulation of Energy and Utilities (NCSREU)
- Antimonopoly Committee of Ukraine (AMCU)
- State Operator for Non-Lethal Acquisition
- Ministry of Strategic Industries of Ukraine
- Defence Procurement Agency
- State Service on Food Safety and Consumer Protection
- State Property Fund of Ukraine



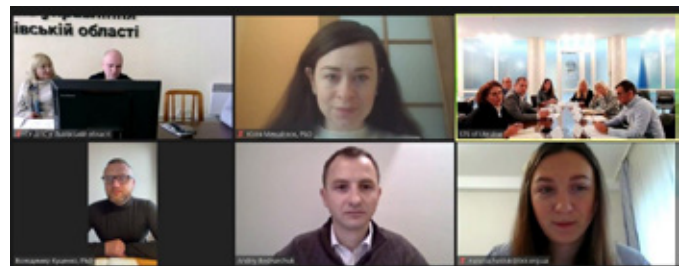
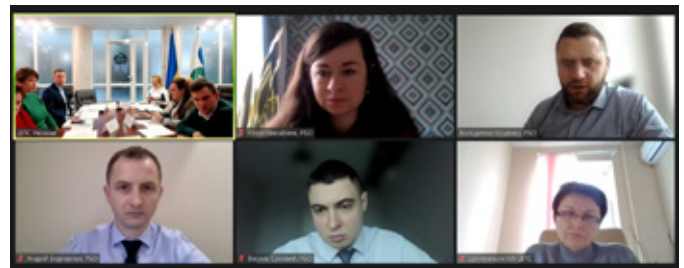
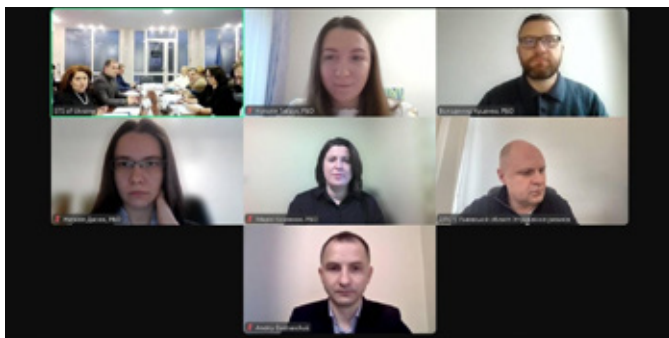


## 8.2 Expert groups

Expert groups (EG) operate within the framework of partnerships between the Council and government authorities, formalized through Memoranda of Partnership and Cooperation. Regular meetings of expert groups facilitate the effective resolution of complaints, experience sharing, and alignment of strategic priorities.

	Number of meetings in 2024	Number of cases considered in 2024
State Tax Service	<b>12</b>	<b>556</b>
MD STS in Kyiv city	<b>9</b>	<b>54</b>
MD STS in Kyiv Oblast	<b>9</b>	<b>34</b>
Prosecutor General's Office	<b>5</b>	<b>59</b>
Security Service of Ukraine	<b>1</b>	<b>3</b>
State Customs Service	<b>6</b>	<b>37</b>

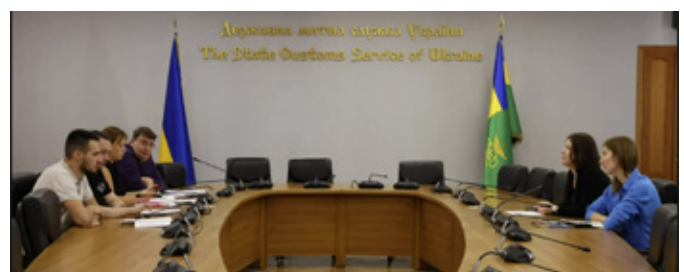
### EG with the STS of Ukraine



### EG with the Prosecutor's Office



### EG with the State Customs Service



### 8.3 Regional visits

The Business Ombudsman Council continues to expand its ties with local authorities and entrepreneurs to more effectively resolve business problems at the regional level. During 2024, the BOC team visited **6 regions** to support businesses locally. Constant communication with entrepreneurs allows us to better understand their problems and find solutions in a timely manner.



## Cherkasy

**On July 9, 2024, the Business Ombudsman's team visited Cherkasy.**

As part of the visit, meetings were held with the leadership of the Cherkasy Regional Military Administration Ihor Taburets and Roman Karmannik. The business climate and investment opportunities of the region were discussed. The Business Ombudsman also presented the Declaration of Fair and Reasonable Administration.



### Case of a distillery in Cherkasy region

The team visited a distillery in the village of Velyki Kanivtsi, which produced alcohol for the pharmaceutical industry. The enterprise was included in the list of risky taxpayers with the accrual of tax surcharges in the amount of UAH 90 mn. After discussion at the Expert Groups, it was possible to remove the risky status from the enterprise.







## Meeting with entrepreneurs of Cherkasy Region

The Council held a meeting with local entrepreneurs on the platform of the Department of Regional Development of Cherkasy Oblast, presenting the activities of the Business Ombudsman and answering questions.

## Cooperation with the Prosecutor's Office

We discussed cooperation with Cherkasy Oblast Prosecutor's Office on protecting business rights and strengthening interaction to effectively solve the problems of entrepreneurs.



## Odesa



## On August 29-30, 2024, the Business Ombudsman and his team visited Odesa.

The Business Ombudsman met with the Director of the Department of Economic Development of the Odesa City Council, Andriy Rozov, and his Deputy Iryna Shvydka, and dedicated the meeting to the presentation of the Declaration of Fair and Reasonable Administration.

## Regional Forum "Business in Time of War"

Roman Waschuk spoke at the forum "Business in Time of War" organized by the All-Ukrainian Professional Association of Entrepreneurs. He shared ideas from the Declaration of Fair and Reasonable Administration and reminded of the BOC free services in resolving business complaints.







**On October 10, 2024, the Council team made a second visit to Odesa.**

## Lviv

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

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



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

The program of the visit to Lviv region also included meetings with representatives of:

- Roomio and Pozhmashyna relocated enterprises
- Enzym and Kormotekh companies







In addition, we met with Lviv IT Cluster and an enterprise operating in the Miltech sector.

## Ternopil

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

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



The Business Ombudsman presented the activities of the Council at an event at the “Western Ukrainian Industrial HUB”.

The Business Ombudsman met with the CEO of one of the world’s largest manufacturers of lamps “Schreder”, that was a Council’s complainant. After several months of work the complaint was resolved successfully.



## Chortkiv

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

In Chortkiv, we met with both the City Council and representatives of companies with foreign investments that have production facilities in the city, such as “SE Bordnetze-Ukraine” and “Billerbeck”.



## Rivne



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

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

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







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

## Kyiv

**The Business Ombudsman Council is strengthening its ties with businesses in the capital.**

The Business Ombudsman Roman Waschuk and his Deputy Tetiana Korotka visited Pharma Start—the manufacturing facility of Acino, the international pharmaceutical company with Swiss roots.

They discussed investment and business support and reaffirmed the Council's readiness to assist in interactions with government authorities.

Visits to the regions allow not only to remind entrepreneurs of the support of the Business Ombudsman, but also to strengthen ties for prompt resolution of issues. The Council continues to build communication with the regions to quickly respond to the needs of businesses during the war.



## 8.4 Cooperation with the Diia.Business business support centers in the regions

The cooperation of the Business Ombudsman Council with the national Diia.Business project is aimed at supporting entrepreneurs and improving the conditions for doing business in Ukraine. Thanks to the Diia.Business centers in different regions, the Council directly interacts with entrepreneurs and encourages them to appeal for help when having issues with state authorities.

During 2024, the Council conducted several visits to the regions, in particular to Odesa, Ternopil and Rivne. These meetings with local entrepreneurs based on Diia.Business platform became an important stage in understanding current challenges and strengthening ties with businesses locally.



## 8.5 Declaration of Fair and Reasonable Administration

In 2024, the Business Ombudsman Council presented the Declaration of Fair and Reasonable Administration to the world. The document developed by the Council is based on the rules that the state and local governments must adhere to in their relations with the private sector, ensuring transparency, honesty and reasonableness in administering and decision-making processes.

The Declaration is based on the principles of good governance between the state and business, in particular good faith, proportionality and reasonableness, which meet the EU standards.

The document received positive feedback from state authorities and stakeholders. The OECD SIGMA program positively assessed the Declaration and confirmed its compliance with best practices in good governance.



The implementation of the Declaration will help bring Ukrainian administration closer to EU standards and contribute to the country's economic recovery.

In 2024, Chortkiv and Ternopil Oblasts signed the Declaration, becoming the first in Ukraine. This is a pilot project that the Council plans to expand to other regions. Signing of the Declaration signals a desire to improve the business climate, support investments and economic development.

Read the full version of the Declaration in Appendix 1 to the annual report on p.83.



## 8.6 International recognition of the Business Ombudsman Council



The Business Ombudsman Council in Ukraine sets new standards for cooperation between the state and business, fostering the development of the private sector and eliminating barriers to entrepreneurship. Its activities serve as a model for countries in Eastern Europe and Asia in building a transparent and favorable business climate.

In 2024, the Council participated in the conduct and presentation of the OECD study on business ombudsman institutions in Eastern Europe and Central Asia.

The OECD study focused on key elements of the work of business ombudsman institutions, including their mission and mandate, human and financial resources, as well as procedures for handling individual complaints. Particular attention was paid to addressing systemic issues businesses face.

The OECD study thus highlights the successful model of Ukraine's Business Ombudsman Council as part of the anti-corruption infrastructure in Eastern European countries. The institution has been operating for 10 years and delivering tangible results in resolving both individual business concerns and systemic problems.

In the fall of 2024, the Deputy Business Ombudsman Tetiana Korotka represented the Business Ombudsman Council at the International Ombudsman Conference in Cassino, Italy, held under the patronage of the Lazio and Italian ombudsman.

The BOC's operational model was presented globally for the first time and generated strong interest among colleagues and experts from Europe, the Americas, Africa, and Oceania.

## 8.6 Meeting with European Union Ambassadors



With the assistance of the EU Ambassador to Ukraine Katarina Mathernova, the Business Ombudsman of Ukraine Roman Waschuk and his Deputy Tetyana Korotka met with the ambassadors of the European Union in February 2024. They presented the activities of the Business Ombudsman Council, protecting the rights of businesses in Ukraine.

At the meeting with the ambassadors of the EU country, which took place at the EU Delegation to Ukraine, Roman Waschuk outlined the key areas of the institution's work, using examples to tell about the problems faced by entrepreneurs, as well as how the Council solves systemic issues in close

contact with the Government of Ukraine and partners.

Roman Waschuk thanked the EU countries for their continuous support of the Business Ombudsman Council and for making the model of free legal assistance effective for both Ukrainian and foreign businesses operating in these turbulent times in Ukraine.

During the year, the Business Ombudsman and his Deputy also maintained working contacts with diplomats of foreign countries, in particular Austria, Denmark, Finland, the USA and Canada, with whom they discussed the issues of Ukraine's recovery.



## 8.8 Australian contacts

The Business Ombudsman is making efforts to promote the mission of the Business Ombudsman Council in protecting business and attracting investors not only in Ukraine, but also abroad.

In 2024, Roman Waschuk made a presentation at the Australian Institute of International Affairs in Brisbane, where he spoke about the development of the Ukrainian state and the ability of its economy to overcome military challenges. In addition, the Business Ombudsman of Ukraine took part in the

event of the Chamber of Commerce in Sydney - Business NSW & Business Sydney, dedicating his speech to the revival and innovation of the Ukrainian economy in the conditions of a full-scale invasion by the Russian Federation.

Roman Waschuk thanked Ukraine's Australian partners for their support and encouraged expanding cooperation between the countries both in the format of attracting economic investments and in strengthening Ukraine's defence capabilities.



## 8.9 Launch of the training course “How the State Interacts: Study, Communicate, Change”

In February 2024, the National Agency on Corruption Prevention Integrity Office launched the online course “How the State Interacts: Study, Communicate, Change”, developed in partnership with the Business Ombudsman Council, the Institute for Partnership Mediation, the Platform for Social Change and with the support of Universal Studio.

The course is aimed at civil servants, heads of public sector organizations and interested citizens and offers to learn about the tools of effective interaction between authorities, society and business.



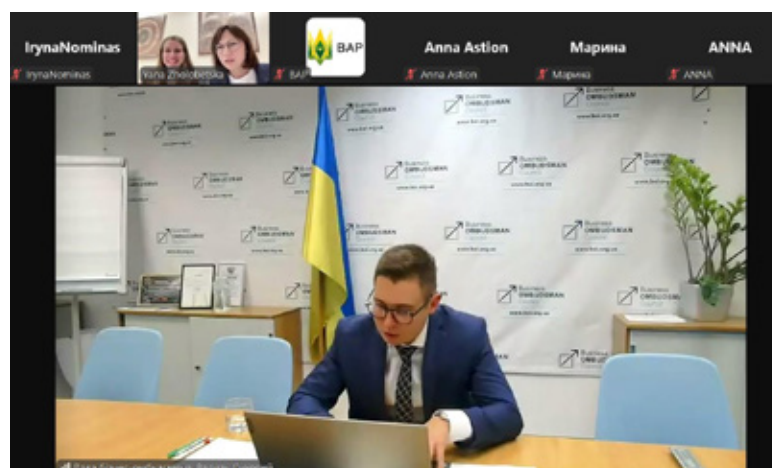


## 8.10 Webinars for business and lawyers

The Senior Investigator of the Business Ombudsman Council Vasyl Sukhovy became the speaker of the webinar “Tax Audits. Pass and (Not) Forget”. The event was organized by the Martyniv Law Firm together with the All-Ukrainian Agrarian Council with the participation of the Business Ombudsman Council.

The event was focused on the main areas of the Council’s work and the complaint mechanism.

Practical advice for businesses on appealing decisions after tax audits was also an important part of the speech. The Council’s Senior Investigator explained in detail how to prepare documents for appealing decisions of tax authorities, what to pay attention to during audits, and how to interact with regulatory authorities.



## 8.11 Selected important events

During 2024, the Business Ombudsman Council speakers participation in both national and international events, particularly organized by international financial institutions, business associations, international technical assistance projects and Ukrainian state bodies.

**28.02.2024**



Discussion on recovery of Ukraine

**Organized by:**  
Network 20/20

**07.03.2024**



Anti-corruption law forum  
**Organized by:**  
Ukrainian Bar Association

**18.03.2024**



Conference “Restoration Strategy and Small and Medium-Sized Business Development for 2024-2027 - Business Vision”

**Organized by:**  
Ukrainian Business Council

09.04.2024



Confrence “Interaction of Business and Law Enforcement Bodies: Key Necessary Amendments to the CPC to Protect Business”

**Organized by:**

Ukrainian Chamber of Commerce and Industry (UCCI)

11.04.2024



Ukrainian Recovery Construction Forum Ukraine

**Organized by:**

Confederation of Builders of Ukraine and Premier Expo

19.04.2024

Presentation of “Made in Ukraine” policy for Kamianets-Podilskyi local business

**Organized by:**

Ministry of Economy

30.04-01.05.2024



Toronto Annual Meeting

**Organized by:**

20-20 Investment Association

31.05.2024



High level discussion “Declaration of Fair and Reasonable Administration – an Agreement Between the State and Business to Establish Effective and Independent Cooperation”

**Organized by:**

Ukrainian Network of Integrity and Compliance (UNIC)

07.06.2024



First Investment Forum

**Organized by:**

Ukrainian Bar Association

28-29.06.2024



Mind Invest Summit 2024 (Lviv)

**Organized by:**

Mind Invest Summit

03.07.2024



KIEF Talks on the topic “Protecting Rights of Ukrainian Entrepreneurs and Investors”

**Organized by:**

Kyiv International Economic Forum and American University Kyiv

17.07.2024



HR Wisdom Summit “The State as a Guarantor of a Person’s Dignity in Relations with Business”

**Organized by:**

Ekonomika+

22.07.2024

Foresight “Developing Micro-, Small and Medium-Sized Business Support Infrastructure, Including Business Associations”

**Organized by:**

United Nations Development Program (UNDP)

02.08.2024

Presentation of OECD study on business ombudsman institutions in Eastern Europe and Central Asia

**Organized by:**

OECD



**30.08.2024**

Regional Forum “Odesa SME 2024. Business During the War”

**Organized by:**

Association “Council of Cities “Protect Private Entrepreneur (FOP)”, All-Ukrainian Professional Association of Entrepreneurs, National Business Coalition, Ukrainian Business Council

**16.09.2024**



Event of the Ministry of Economy of Ukraine “Economic Policy of Ukraine: Recovery During the War”

**Organized by:**

Ministry of Economy of Ukraine

**16.09.2024**



Discussion “Ukraine on the Road to OECD and Accession to OECD Anti-Bribery Convention: Corporate Reform Responsibility”

**Organized by:**

OECD

**18.09.2024**



III Business & Legal Infrastructure Forum

**Organized by:**

Yurydychna Praktyka Publishing House

**11.10.2024**



Business Protection Forum

**Organized by:**

Ukrainian Bar Association

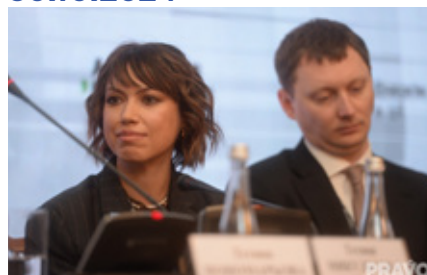
**26.10.2024**

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

**Organized by:**

EU Anti-Corruption Initiative

**30.10.2024**



Legal Advisors Forum

**Organized by:**

Yurydychna Praktyka Publishing House

**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**

Kyiv International Economic Forum

**Organized by:**

Kyiv International Economic Forum (KIEF)

**14-15.11.2024**

Ukraine Recovery Conference 2024

**Organized by:**

Premier Expo

**21.11.2024**

Conference “Reforms Matrix: Strengthening Economic Growth Foundations for EU Accession”

**Organized by:**

Government of Ukraine

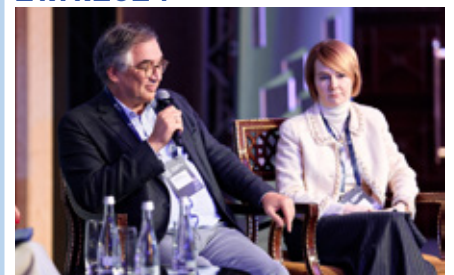
**21.11.2024**

Conference “Dignity. Safety. Quality. Meeting at the Frontier”

**Organized by:**

Frontier Institute

**21.11.2024**



Ukrainian Outsourcing Summit

**Organized by:**

Lviv IT Cluster



**25.11.2024**

Danish Business Forum

**Organized by:**

Danish Business Association

**3.12.2024**

Ukraine Recovery

Conference 2024

**Organized by:**

Canada-Ukraine Chamber of Commerce (CUCC)

**10.12.2024**

SUP Awards 2024

ceremony

**Organized by:**

Union of Ukrainian Entrepreneurs (SUP)

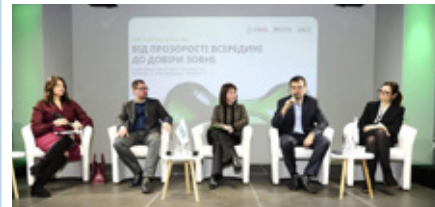
**16.12.2024**

KIEF TALKS “2024: the Year of Challenges. Will 2025 be the Year of Recovery?”

**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)

## 10

## Public Outreach

## Cooperation with the media

The Business Ombudsman and his team openly cooperate with the media, give interviews, comments and write publications to draw public attention to the Business Ombudsman Council activities and problems of entrepreneurs that it helps to solve. BOC shares its own view of the situation, assesses the business climate and current events in the country's economic life.

## Online and printed media



## TV and radio



## Podcasts



## Press briefings

19.01.2024

presenting BOC operational results in 2023



16.04.2024

presenting our own-initiative investigation results on tax inspections



## Cooperation with Forbes Ukraine

During 2024, the Business Ombudsman Council actively cooperated with Forbes Ukraine, covering successful cases and topical issues of doing business in the country.

Рада бізнес-ОМБУДСМЕНА Forbes

**Жодного перехідного періоду. ФОПи-реабілітологи більше не отримують компенсацію за лікування дітей з інвалідністю**

Кейс від Ради бізнес-омбудсмена

Наталія Дасюк, інспекторка РБО

Рада бізнес-ОМБУДСМЕНА Forbes

**Кризь валютні обмеження. Як відтермінувати оплату за іноземне обладнання?**

Кейс від Ради бізнес-омбудсмена

Володимир Куценко, старший інспектор РБО

Рада бізнес-ОМБУДСМЕНА Forbes

**Мінекономіки не захотіло дати статус критично важливої компанії. Як вдалося розв'язати проблему?**

Кейс від Ради бізнес-омбудсмена

Олена Чорна, інспекторка РБО

Рада бізнес-ОМБУДСМЕНА Forbes

**Дев'ять кіл пекла примарного податкового боргу, що зріс до 54 млн грн за вісім років.**

Кейс від Ради бізнес-омбудсмена

Максим Дятель, інспектор РБО

Рада бізнес-ОМБУДСМЕНА Forbes

**Податкова нарахувала оборонному підприємству штраф на 13,2 млн грн за начебто несвоєчасний імпорт**

Як Рада бізнес-омбудсмена добилася скасування санкцій

Василь Суховий, інспектор РБО

Forbes Business Breakfast з Володимиром Федориним

**Роман Ващук**  
Бізнес-омбудсмен

Капіталісти без капіталізму

НОВИЙ СЕЗОН



Collaboration also included participation in Forbes Business Breakfast event. On June 27, 2024 Roman Waschuk participated in a special Forbes Entrepreneurs Forum panel entitled “Entrepreneurs and Culture: the History of Complex Relations” together with Tetiana Vodotyka, a historian and Ukrainian entrepreneurship researcher. The event attracted wide audience attention and got over 5k views.



## Cooperation with Business Ukraine

In 2024, in the Business Ukraine magazine New Year issue, a separate page was dedicated to the Business Ombudsman Council and its services for business.





# Declaration of Fair and Reasonable Administration

# Preamble

Thousands of complaints from entrepreneurs reviewed by the Business Ombudsman Council on malpractice of public administration bodies unquestionably confirm the fact that even technically perfect legislation is not a guarantee of the rights and legitimate interests of business in practice.

We believe that it is the quality of everyday practical application of laws in the spirit of justice and prudence that serves as the main guiding light for compliance with the rule of law principle as the foundation of a law-based state.

Critical assessment and review of the existing manner of administering laws is no less important than modernization of legislation, since it is application and enforcement that will lay the foundation for the future social contract between the state and business, forming the basis for Ukraine's renewal.

At the heart of such an agreement, as a basis for transparent relations between the state and entrepreneurs, there should be good faith, proportionality, prudence, as well as the rest of the general European Union legal principles.

It remains the case that, in the process of implementation, where legislation provides a choice between several

legal options, decision-making is often not guided by the above-mentioned principles, but is rather solely influenced by the need to achieve target indicators or by the fear of attracting the attention of law enforcement bodies.

Adherence by public administration authorities to the implementation principles set forth in this Declaration will help not only to resist negative practices mentioned above, but also contribute to the predictability of the management decision-making process, and as a result, improve the perception of such decisions by business and society.

This Declaration in no way replaces current legislation provisions, but rather seeks to emphasize the need to take into account European Union law fundamental principles in administrative activities, such as reasonableness, proportionality, prudence, impartiality, etc.

We are convinced that applying the principles outlined in this Declaration should not be the exclusive prerogative of the courts. They should first of all be applied by public administration representatives to support business in every possible way and reduce the number of disputes going to court.



# Principles

## Reasonableness

The reasonableness of the decision made should be an integral part of fair and prudent law application. Public administration bodies must always give convincing arguments in the decision-making process, as well as specify the reasons for rejecting counterarguments presented by businesses.

The adopted decision will not be considered reasonable if its content is limited to quoting legislation, and does not contain an assessment of the circumstances, arguments and

motives on which the decision by the administrative body is based.

Fair enforcement is based on moderation in decision-making. Executive authorities must take into account all the circumstances of the case before taking any final decision and action, assess and compare possible positive and adverse consequences, thereby maintaining a reasonable balance between the interests of business, the state and society.

## Proportionality

Decisions and actions of public administration bodies must be commensurate with the situation or violation, if such was committed by business. In particular, it is worth taking into account whether the violation of law committed by the business caused any real losses to the state or local budget or any other damages.

Public administration bodies should avoid applying liability measures to

businesses, if the violation committed is of a technical nature and, due to its insignificance, did not cause damage to the budget or other legally protected interests.

In the event that a public administration body chooses from several enforcement measures on business, preference should be given to the least onerous ones.

## Clarity

Any decision of public administration bodies must be presented in such a way that an ordinary person, after reading it, could at least understand all the circumstances of the case: conclusions made by the competent public administration body; the

content of legislation applied; grounds for applying these norms; grounds for rejecting or taking into account counterarguments of an entity in respect of which the enforcement decision was taken, etc.

## Impartiality

In their daily activities, public administration bodies must be guided by impartiality and objectivity principles. It means that public administration bodies must act without any personal preferences or sole desire to achieve target indicators; without external influence or unlawful pressure from management or instructions from law enforcement bodies.

Public administration bodies must carefully establish and consider all relevant factual and legal elements of the case, taking into account not only the interests of the administration, but also the interests of all parties involved in the case, thereby showing due care.

## Transparency and business participation in decision-making

State authorities should provide business representatives with a real opportunity to participate in the process of shaping important decisions, enabling them to provide arguments to be considered and taken into account, where appropriate.

Public administration bodies should facilitate business access to information about decisions and the materials on which they were based, if such decisions concern business interests.

## Timeliness

Fair application of law involves timely decision-making without undue delay. In other words, the essence of this principle is that “slow administration is

poor administration”. Delay in making a final decision violates the principle of legal certainty.

## Effectiveness

Effective application of law should ensure economical use of resources and attainment of the best results that could be defended by the executive authority

in the event of a court challenge, taking into account established approaches in the administration of justice.

## Legal certainty

Acting contrary to case-law established by national courts, particularly model case decisions of the Supreme Court, is a direct violation of the principles contained in this Declaration, which consigns both the state and business to long-lasting administrative and judicial litigation.

Public administration bodies should make every effort to make the

application of laws predictable for business.

During the decision-making process, public administration bodies should take into account the legitimate expectations of business, as well as established legal and regulatory practices in a particular area, especially when it comes to a possible retrospective impact on rights or obligations.

## Presumption of legality of a person's actions and claims

State authorities should ensure protection of business rights in relations with public administration bodies, since from the very beginning business is the weaker and more vulnerable party in relations with the state.

Actions, decisions and requirements of business should be considered legitimate, until proven otherwise in an appropriate manner in the course of the work of public administration bodies.

## Documented decisions and data quality

Public administration bodies must make every effort to establish the circumstances relevant to the decision of the case and, if necessary, collect documents and other evidence for this purpose on their own initiative and drawing on their own resources.

Information used in enforcement by public administration bodies must be accurate, up-to-date, and legally obtained.

## Effective administrative appeal

Public administration bodies must make effective efforts to assess the quality of application of laws by their territorial

structural subdivisions, and facilitate business in every way in availing itself of the administrative appeal process.

## Practical application of principles

Quite often, practical application of the aforementioned principles in certain cases may prove to be a challenging task, given the complexity and diversity of legal relations that may arise between business and public administration bodies.

It is possible to achieve compliance with the principles declared in this Declaration by checking and evaluating the relevant decision of the public administration body before its adoption in the light of answers to the following questions.

The checklist below is based on universal questions used by public administration bodies in common law countries in accordance with guidelines for making administrative decisions called Judge Over Your Shoulder.

Negative answers to the questions below (or absence of any answers) will indicate that the decision of a public administration body contradicts the principles proclaimed in this Declaration and violates the rights or legitimate interests of business. The advisability of making such a decision should therefore be carefully reviewed.



# Checklist for making decisions

1	Where does the power to make this decision come from and what are its legal limits?	11	Does the power have to be exercised in a particular way, e.g. does legislation impose procedural conditions or requirements on its use?
2	For what purposes can the power be exercised?	12	Have I consulted properly with legal advisors or other experts, if this is necessary for a particular case?
3	What factors should I consider when making a decision?	13	Will I be acting with procedural fairness towards the persons who will be affected?
4	Is there any established administrative practice, both within and outside the relevant authority, as to exercising such a power?	14	Could I be, or appear to be, biased?
5	Does anyone have a legitimate expectation as to how the power will be exercised?	15	Have I taken necessary considerations into account, and is my decision reasonable?
6	Can I make this decision or does someone else need to make it?	16	Does the decision need to be, and is it proportionate?
7	Will my decision be compliant with human rights law?	17	What might be the consequences of court intervention in my chosen approach to application?
8	Is my decision compliant with the administrative procedure principles?	18	Have I taken into consideration conclusions of the Supreme Court, which are binding when applying this legal provision, or, in their absence, the prevailing practice of national courts?
9	Will my decision violate the principles enshrined in the legislation or contradict the purpose of the relevant legislation?		
10	Are there direct or indirect financial consequences of the decision proportional to the committed violation? If no, what is the reason for the need to make such a decision?		

# Eliminating barriers to doing business in Ukraine



[www.boi.org.ua](http://www.boi.org.ua)