



## **A Forum on Eliminating Corruption and Promoting Economic Development in Ukraine**

Justice Sector Training, Research and Coordination (JusTRAC) Symposium  
The Rule of Law Collaborative at the University of South Carolina  
In coordination with the CEELI (Central and Eastern European Law Initiative)  
Institute  
Prague, Czech Republic

Monday, July 20 and Tuesday, July 21, 2015

**FINAL REPORT**

**August 25, 2015**

## Table of Contents

Background	1
Corruption and Economic Development in Ukraine	2
Recommendations	6
Appendix A: Symposium Program	8
Appendix B: Presentation Materials	14

## Background

On July 20 and 21, 2015, the Rule of Law Collaborative (ROLC), University of South Carolina, and the Bureau of International Narcotics and Law Enforcement Affairs (INL), U.S. Department of State, held “A Forum on Eliminating Corruption and Promoting Economic Development in Ukraine,” at the Central and Eastern European Law Initiative Institute (CEELI), in Prague, Czech Republic. This symposium was the second Justice Sector Training, Research, and Coordination Program (JusTRAC) symposium and the first outside the United States. The symposium was organized in a roundtable format, which allowed for a frank, open exchange of ideas. The symposium brought together policymakers, business leaders, academics, media professionals, and representatives of civil society to discuss the challenges of corruption and economic development in Ukraine, as well as opportunities for greater coordination and collaboration. INL Assistant Secretary Ambassador William R. Brownfield, Chargé d’Affaires of the U.S. Embassy in Prague Stephen Kashkett, ROLC Director Joel Samuels, and ROLC Deputy Director Hamid Khan made opening remarks. In plenary sessions and thematic panels, symposium participants discussed such topics as:

- The challenges of combatting corruption
- Strategies to prevent, limit, and counter corruption
- Testing and enhancing the capacity of anti-corruption institutions
- Civil society and media involvement in the corruption discourse
- Doing business in Ukraine
- Commercial investment in Ukraine
- The role of civil society, media, and professional associations in economic development
- The international regulatory regime and Ukrainian commercial sector reform

This report summarizes comments and recommendations from symposium participants. All remarks were made off the record and appear without attribution in the report.

At the conclusion of the symposium, participants expressed interest in holding a follow-up event. See Appendix A for a copy of the symposium program and Appendix B for copies of symposium presentation materials.

This report was prepared by ROLC Research Coordinator Mr. Kiel Downey.

## Corruption and Economic Development in Ukraine

While the Maidan protests, which began in late 2013, and the February 2014 Ukrainian revolution paved the way for reforms that could reduce corruption and spur economic development, Ukraine continues to suffer from systemic corruption and weak economic performance. Transparency International’s 2014 Corruption Perceptions Index ranks Ukraine 142<sup>nd</sup> out of 175 countries (a higher ranking represents greater perceptions of corruption),<sup>1</sup> and corruption in Ukraine affects a wide variety of government institutions and sectors of the economy, from the judiciary and the civil service to real estate and the extractive industries, among others. According to data from the World Bank, Ukrainian GDP growth has been near zero or even negative every year since 2012—most recently -6.8%, in 2014—and is projected to dip to -7.5% in 2015.<sup>2</sup>

Corruption and weak economic performance in Ukraine continue to reinforce each other. One symposium participant noted that high levels of political risk, associated with corruption, deter foreign investors in Ukraine. For example, the risk of corporate raids, carried out without sufficient legal grounds, has been a significant deterrent for potential investors.<sup>3</sup> Many Ukrainian citizens avoid paying their taxes in full because they fear officials will steal the money. Corruption allows political elites and oligarchs to accrue benefits at the expense of small and medium-sized enterprises, which have the potential to be the key drivers of Ukraine’s economic development. In addition, weaknesses in the regulatory framework for doing business in Ukraine have facilitated corruption.

Government, the private sector, the media, and civil society all have played key roles in the reform process since the onset of the protests, but they all face obstacles in advancing sustainable reform. Reformers within government, particularly young Members of Parliament, have been instrumental in pushing for reform, but they operate within a system that is the product of endemic corruption. With an eye towards creating comprehensive, sustainable reforms, the Ukrainian government has already launched various reform measures, including:

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<sup>1</sup> Transparency International, Corruption Perceptions Index 2014. <http://www.transparency.org/cpi2014/results>. Last accessed August 24, 2015.

<sup>2</sup> World Bank, Global Economic Prospects. <http://databank.worldbank.org/data/reports.aspx?source=global-economic-prospects>. Last accessed August 24, 2015.

<sup>3</sup> See, e.g., Marta Jarosewicz and Piotr Zochowski, “Combatting Corruption in Ukraine – the Beginning of a Long March,” *Commentary*, Centre for Eastern Studies, no. 170, 5 June 2012. [http://ti-ukraine.org/en/system/files/research/osw\\_commentary.pdf](http://ti-ukraine.org/en/system/files/research/osw_commentary.pdf). Last accessed August 24, 2015.

Support was provided by the U.S. Department of State. The views expressed herein do not necessarily reflect those of the U.S. Department of State.

- A lustration law, adopted in September 2014
- An October 2014 package of anti-corruption legislation, including:
  - An “Anti-Corruption Strategy,” which outlines high-level strategy for combatting corruption over the period 2014-2017
  - A law that establishes a National Anti-Corruption Bureau, charged with “preventing, revealing, combating, investigating, and solving corruption offences”<sup>4</sup>
  - A corruption prevention law
  - A law that provides for public access to official registries with information about officials’ assets

Unlocking the potential of the private sector, in particular Ukraine’s burgeoning information technology industry, is crucial to ensuring Ukraine’s economic success. Ukraine’s Business Ombudsman Council, for example, provides a mechanism through which businesses can file complaints for investigation, including complaints regarding official corruption or regulatory obstacles to doing business. The media, especially television, plays an increasingly important role, as investigative journalism has become an attractive profession in the post-Maidan era and whistleblowers continue to view the media as a more effective watchdog than the government. Civil society provided the initial impetus for reform and continues to be an important liaison between the populace and reform-minded officials. Any effective reforms require the input and oversight of Ukraine’s civil society, but the Ukrainian government needs to be mindful of populism and the radicalization of society.

Ukraine is now at a crossroads in the post-Maidan era, as the elation of the movement’s initial victories has worn off, challenging Ukraine to sustain the momentum of the daily reform process. For example, while reform efforts to date have targeted high levels of government, they have done little to change Ukraine’s civil service. Civil servants, who remain in their positions through the rotation of ministers, have little incentive to combat corruption or facilitate economic development. Various economic reforms lie ahead or are already underway, as well, such as making changes to Ukraine’s tax code, reducing the fiscal burden on businesses, and providing an online platform for business registration. Ukraine’s government also faces the challenge of following through on the

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<sup>4</sup> “Ukraine Anti-Corruption Laws,” Squire Patton Boggs, 21 October 2014. <http://www.squirepattonboggs.com/~//media/files/insights/publications/2014/10/ukraine-anticorruption-laws/files/ukrainealertanticorruptionlawandlustrationlaw/fileattachment/ukrainealertanticorruptionlawandlustrationlaw.pdf>. Last accessed August 24, 2015.

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2014 package of anti-corruption legislation, ensuring that its aims are carried out in an effective and timely manner.

Some reforms have been encouraging. For example, Ukraine has created publicly accessible registries of various kinds of assets and will include others, such as vehicles, in future registries. Ukraine has also provided consolidated, public access to those registries online, via <http://www.igov.org.ua>, and it has required officials to declare their assets. Such a requirement increases transparency and provides the media and civil society with a greater volume of official information on which to rely in their reporting. Ukraine has imposed criminal liability for failure to disclose assets, although it is unclear whether or not the government of Ukraine will carry out criminal prosecution consistently in such cases. Some participants recommended replacing criminal sanctions with administrative sanctions, such as seizure of assets without criminal prosecution. To take another example, Ukraine is in the process of reforming its constitution, which presents an opportunity for judicial reform. For example, the constitutional reform process presents an opportunity to clarify separation of powers, institutionalize professional requirements for judges, and add provisions to enhance judicial independence.

In addition to the reform process itself, investigative journalism has played an important role in rooting out corruption. To take two recent examples, journalists investigated then Deputy Interior Minister Serhiy Chebotar and head of Ukraine’s traffic police, Oleksandr Yershov, on suspicion of failing to declare assets, leading to the resignations of both officials in mid-2015.<sup>5</sup> Investigative journalism, previously a dangerous profession in Ukraine, has transformed into a fashionable one in the post-Maidan era, and some reform-minded journalists have even entered the government. Despite this resurgence in investigative journalism, however, Ukraine still suffers from small numbers of independent media sources.

Other reforms have had limited success. For example, while the October 2014 reform package is ambitious and comprehensive, it has not been implemented fully. For example, the National Anti-Corruption Bureau, which was envisioned to be launched as early as January 2015, was not launched

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<sup>5</sup> See, e.g., Alyona Zhuk, “Another Top Police Official Quits over Corruption Allegations,” *Kyiv Post*, 20 May 2015. <http://www.kyivpost.com/content/kyiv-post-plus/another-top-police-official-quits-over-corruption-allegations-389047.html>. Last accessed August 24, 2015.

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until April 2015.<sup>6</sup> In another example, many officials from the Yanukovich government who were ousted under the 2014 lustration law found ways to return to government, and money that was appropriated by the outgoing Yanukovich government has not been returned to Ukrainian coffers. In addition, a variety of businesses in Western countries harbor the assets of corrupt Ukrainian officials, hampering the effects of measures that target the assets of corruption officials within Ukraine.

A complex mixture of domestic and international challenges makes the reform process a pressing priority. As one symposium participant noted, “The old system is in retreat, and it has no future, but it may drag on for some time, and Ukraine does not have that time.” Domestic challenges include the Soviet legacy of corruption and disregard for the rule of law, actors with vested interests in the pre-Maidan system who continue to resist reforms, a lack of high-level political will to enforce legislation, and widespread social norms that tolerate corruption. International challenges include a lack of international donor coordination, complicity by Western businesses that facilitates corruption, a war with Russia, the challenge of bringing Ukraine’s regulatory regime in line with European Union standards, and the task of preparing its businesses to compete in the European market. One symposium participant estimated that, based on past experience with other countries, Ukraine must provide foreign investors with an effective way to evaluate political risk in the Ukrainian market in the next three to five years, or it risks losing significant potential foreign investment.

These various challenges are not unique to Ukraine, and the experiences of other countries can provide lessons as Ukraine seeks a path forward. Participants discussed comparative cases, ranging from the Balkans to Africa, that highlighted the role cultural norms play in preventing corruption and promoting economic development. While Ukraine is working to reform its laws and it has a vibrant civil society, it still suffers from the lack of a “rule of law culture.” Ukraine’s civil society suffers from the Soviet legacy of top-down organization of society, and Ukraine can look to other Eastern European countries that have made progress in organizing their civil societies, such as Poland and the Czech Republic.

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<sup>6</sup> “Anti-Corruption Bureau Launched with Young Investigator in Charge,” *The Ukrainian Weekly*, 24 April 2015. <http://www.ukrweekly.com/uw/wp/anti-corruption-bureau-launched-with-young-investigator-in-charge/>. Last accessed August 24, 2015.

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## Recommendations

Various symposium participants made the following recommendations:

- **Ukraine should ensure the timely launch of the institutions envisioned in the anti-corruption legislative framework.** Ukraine’s recent anti-corruption legislation is ambitious and comprehensive, but participants expressed concern that implementation and enforcement would be slow or inconsistent.
- **Ukraine should enact civil service reform that gives civil servants an incentive to facilitate anti-corruption and economic development efforts.** Given their numbers and their independence from election cycles, Ukraine’s civil servants are poised to play an important role in the process of daily reform. Low salaries, inadequate training, and legacies of corruption, however, provide incentives for civil servants not to advance reform.
- **Ukraine should dismantle its entire legal system and build a new system *de novo*.** Participants widely agreed that Ukraine has yet to develop a culture of intolerance towards corruption, and at least one argued that only a new institutional design for Ukraine’s legal system can change the entrenched norms that allow corruption to occur.
- **Ukraine should empower young Members of Parliament.** Young Members of Parliament are a prominent force for change in Ukraine, and many have ties to civil society and the media. Reformers should support those young Members of Parliament while they are still young and idealistic.
- **Ukraine should empower the private sector.** While Ukraine suffers from entrenched corruption and weak economic performance, its levels of human capital and economic development are greater than those of many other countries with similar problems. In particular, Ukraine’s information technology sector and its small and medium-sized enterprises have the potential to drive growth. In order to unlock this potential, however, Ukraine must create a business environment that is simpler, more transparent, and more predictable.
- **Ukraine should empower civil society.** Civil society has played a crucial role in holding government accountable, and Ukraine must ensure that civil society has oversight over future reforms. Participants noted that improving the organization of civil society in other countries, such as Poland and the Czech Republic, has been critical to improving governance.



- **Ukraine should empower the media.** Journalists have proven to be important actors in the fight against corruption. Investigative journalism has transformed from a dangerous profession into a fashionable one in the post-Maidan era, and journalists have helped bring corrupt officials to justice, as noted in this report.
- **Ukraine should de-monopolize and increase transparency in television broadcasting.** Ukrainians rely on television for their news more than on any other source, including social media. As such, it is critical that Ukraine allow television journalists the freedom to conduct independent reporting.
- **Ukraine should enhance efforts to adhere to international anti-corruption standards.** Ukraine has ratified the United Nations Convention against Corruption,<sup>7</sup> but symposium participants noted that Ukraine has yet to incorporate international best practices into its domestic anti-corruption legislation in a comprehensive manner.
- **Western countries should acknowledge that they facilitate corruption in Ukraine.** No matter how effective anti-corruption measures are within Ukraine, corruption will continue to be a problem as long as Ukrainian officials can hide illegally acquired assets abroad, and participants widely agreed that Western businesses often have provided a safe haven in such cases.
- **The United States should condition support to Ukraine on anti-corruption reform.** Ukraine has already won major victories in the fight against corruption, but pressure from donor countries like the United States could give the government of Ukraine an incentive to maintain the momentum of reforms.
- **Donor organizations should play a role in fighting corruption and promoting economic development in Ukraine, and they must coordinate with one another and with reformers inside Ukraine.** Ukraine receives assistance from a variety of external donor organizations, but a lack of coordination among these organizations and with Ukrainian reformers has hindered efforts to reduce cooperation and boost economic growth. Differing priorities, methods, and timelines make donor coordination a challenge in many contexts, but endemic corruption and a lack of capacity have exacerbated the problem in Ukraine.

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<sup>7</sup> United Nations Convention against Corruption, Dec. 2, 2009, 2349 U.N.T.S. 41.

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## Appendix A: Symposium Program



### A Forum on Eliminating Corruption and Promoting Economic Development in Ukraine

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Monday, July 20 and Tuesday, July 21, 2015

#### Location

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## Summary

This JusTRAC Symposium is focused on Ukraine and brings together policymakers, business leaders, and academics to discuss the challenges of corruption and economic development, as well as opportunities for greater coordination and collaboration. The symposium will be held in a roundtable format, facilitating open discussion and exchange among expert panelists. Panelists will be drawn from the Ukrainian business community, stakeholders in civil society, and representatives from anti-corruption institutions, as well as Ukrainian policymakers chosen for their particular acumen in areas of commerce and economic prosperity. The symposium will culminate in a final report that summarizes the key points that emerge during these high-level discussions, as well as areas for further discussion.

## Program

### **Day 1: Monday, July 20, 2015**

Note: **Symposium Facilitator**

*Nataliia Akhtyrskya, Associate Professor, Law Department, Taras Shevchenko National University of Kyiv*

Dr. Akhtyrskya will serve as Symposium Facilitator for the full program.

8:30 AM **Registration**

8:45 AM **Welcoming Remarks**

*Joel Samuels, Director, Rule of Law Collaborative, University of South Carolina*

*Stephen Kashkett, Deputy Chief of Mission, Embassy of the United States in Prague, Czech Republic*

*Assistant Secretary William R. Brownfield, U.S. Department of State, Bureau of International Narcotics and Law Enforcement Affairs*

9:00 AM **Plenary Address: Ukraine and the Challenges of Combatting Corruption**

*Oleh Rybachuk, Former Vice Premier for European Integration of Ukraine, Chairman of the Supervisory Board of the Foundation “Community” & founder and head of “Centre UA”*

*Sergii Leshchenko, Member of Parliament and Journalist*

Corruption is pervasive and commerce is perilous in Ukraine. The 2014 World Justice Project’s *Rule of Law Index* ranks Ukraine 94<sup>th</sup> among 99 nations, (21<sup>st</sup> among 24 lower middle income countries, and 12<sup>th</sup> among 13 countries in the East European and Central Asian region). Corruption is a serious problem in every branch of government, and the commercial sector is plagued by inefficiency and numerous obstacles to investment. The plenary session will therefore provide participants with a comprehensive overview of corruption in Ukraine.

10:30 AM **Panel I: Examining Effective Preventive Strategies for Limiting and Countering Corruption**

*Ruslan Riaboshapka, Former Deputy Minister of Justice of Ukraine*

*Natalia Stupnytska, National Project Manager at OSCE and Project Coordinator in Ukraine*

*Lise Stensrud, Policy Director on Anticorruption, Norwegian Agency for Development Cooperation*

Drawing upon the experience of regional countries in transition, this panel will discuss a range of strategies for limiting and countering corruption in Ukraine. Georgia, Estonia and Poland, in particular, have achieved success in greatly reducing bribery and extortion in the areas of traffic fines, business licensing, and inspections. Additional areas where legislation is still needed, e.g., whistle-blower laws, income reporting for public officials, anti-nepotism laws, and restrictions on elected officials using their offices to influence judicial, administrative, or regulatory decisions, will be highlighted.

12:00 PM **Lunch**

1:00 PM **Panel II: Testing the Vigor and Enhancing the Enforcement of Anti-Corruption Institutions**

*Zdenek Kühn, Judge, Supreme Administrative Court of the Czech Republic, and Associate Professor of Law, Charles University*

*Richard D. Bennett, Judge, U.S. District Court for the District of Maryland*

*Bohdan Vitvitsky, Candidate for the Ukrainian Anti-Corruption Bureau and Former Assistant U.S. Attorney*

*Natalija Stamenkovic, former Senior Rule of Law Advisor to the Europe and Eurasia Bureau, U.S. Agency for International Development*

In the past year the Ukrainian government has passed legislation creating new institutions for combating corruption. This panel will discuss the impact of these institutions and what additional measures are needed to enhance their impact. Attention will be paid to improving the performance and professionalization of Ukrainian government officials. Specific topics include enforcing conflict-of-interest policies for public officials and establishing civil service and professional codes of conduct.

2:30 PM **Panel III: New Lines of Sight: Evaluating the Means and the Mechanisms for Greater Civil Society and Media Involvement in the Corruption Discourse**

*Isabelle Tschan, United Nations Development Program*

*Svitlana Samoilenko, Executive Editor, Espresso TV*

*Andrea Chalupa, Ukrainian activist, Journalist #DigitalMaidan*

Corruption will never be totally eradicated, but opening governance to citizen and media exposure can go a long way towards curtailing pervasive corruption. This panel will discuss the many mechanisms for expanding transparency and citizen engagement in governing processes with an eye toward their impact on preventing corruption. Specific topics to be addressed include e-governance, including electronic posting of RFPs for all government-funded procurement and construction, open meeting laws, and promotion of professional associations, e.g., bar associations, medical associations, and business associations, with power to censure, fine, or take other punitive actions against members for engaging in corrupt practices.

4:00 PM **Open Discussion**

How can Ukrainian and international governmental and non-governmental actors work together to address corruption in Ukraine?

5:00 PM **Closing Remarks and Adjourn**

## Day 2: Tuesday, July 21, 2015

### 9:00 AM **Plenary Session: Doing Business in Ukraine: Surveying the Landscape**

*Tetiana Korotka, Deputy Business Ombudsman, Ukraine*

*Myron Rabij, Partner, Dentons, Kyiv*

*Valentyna Danishevskya, Director for Commercial Law Center*

Ukraine faces a number of challenges in opening up its commercial sector to investment (including foreign investment), entrepreneurial activity, and economic development. This plenary will provide an overview of the commercial landscape in Ukraine today, identifying the most important issues that need to be addressed. Specific topics to be addressed include enforcement of court rulings, arbitral awards, and other forms of commercial dispute resolution and case studies to illustrate both successful and unsuccessful investment and business development strategies.

### 10:30 AM **Panel I: Marketplace Perspective: Preserving and Enhancing Commercial Investment in Ukraine**

*Andy Hunder, President American Chamber of Commerce in Ukraine*

*Ilia Kenigshtein, Managing Partner, Hybrid Capital*

With a new pro-market, Western-looking government in Ukraine, progress can be made in implementing recently passed legislation in a number of areas, but understanding the commercial terrain is perhaps best examined from the perspective of Ukrainian market actors. This panel therefore will offer insights from those who have worked within the Ukrainian business environment and will address the role of domestic and foreign business actors in driving needed reforms in the Ukrainian business environment. Panelists' recommendations may include reference to the experience of other transitional states in the region, including case studies of how commercial disputes were or might be resolved.

### 12:00 PM **Lunch**

1:00 PM      **Panel II: The Role of Civil Society, the Media, Professional Associations and Other Actors**

*David Vaughn, USAID FAIR Justice Project*

*Zdenek Kühn, Judge, Supreme Administrative Court of the Czech Republic, and Associate Professor of Law, Charles University*

*Sergii Ivanov, Pravda*

Effective legal reform efforts cannot be successful without broader support from society. This panel will discuss ideas for reaching out to civil society groups, professional associations, marketplace actors, business groups, and the media (including social media), vulnerable populations (including women and various ethnicities, such as Russian-speaking people) to garner support for reforms in the commercial sector. The panel may also raise issues such as sunshine laws, open meetings of shareholders, and greater transparency in the commercial sector and in judicial and regulatory proceedings arising from the commercial sector.

2:30 PM      **Panel III: The International Regulatory Regime and the Ukrainian Commercial Sector Reform**

*Mato Meyer, Programme Officer, Economic Co-Operation and Governance, OSCE*

*Peter Teluk, Managing Partner, Squire Patton Boggs, Kyiv*

This panel will explore the difficult position Ukraine finds itself in, attracted to Europe and the EU for political and economic reasons, but still having to confront the realities of its interdependencies with other nations. The move to further integrate into the EU and the global market is a strong motivator for progressive change in Ukraine. Specific topics addressed by the panel will include the EU Deep and Comprehensive Free Trade Agreement and recommendations of the US-Ukraine Business Council of September 2014.

4:00 PM      **Open Discussion & Agenda Setting**

How can Ukrainian and international governmental and non-governmental actors work together to address areas of concern in the commercial law sector?

5:00 PM      **Closing Remarks and Adjourn**

## Appendix B: Presentation Materials

Appendix B contains the following presentation materials:

1. Prepared remarks, Natalia Stupnytska (Day 1, Panel I)
2. Presentation materials, Bohdan Vitvitsky (Day 1, Panel II)
3. Prepared remarks, Svitlana Samoilenko (Day 1, Panel III)
4. Presentation materials, Svitlana Samoilenko (Day 1, Panel III)\*
5. Presentation materials, Tetiana Korotka (Day 2, Plenary Session)
6. Presentation materials, Myron Rabij (Day 2, Plenary Session)
7. Presentation materials, David Vaughn (Day 2, Panel II)

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\*For a version of this presentation that contains video content, visit [http://www.sc.edu/about/offices\\_and\\_divisions/provost/academicpriorities/special\\_initiatives/rolc/justrac/symposia/previous\\_symposia.php](http://www.sc.edu/about/offices_and_divisions/provost/academicpriorities/special_initiatives/rolc/justrac/symposia/previous_symposia.php).

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Dear ladies and gentlemen, distinguished participants,

First of all I would like to thank the Justice Sector Training, Research and Coordination Symposium, the Rule of Law Collaborative at the University of South Carolina and the Central and Eastern European Law Initiative for such timely and important event and opportunity to participate in the form.

Prior to discussing the Preventive Anticorruption strategies I would like to bring some background information.

- After gaining the independence in 1991 Ukraine has commenced its long and challenging path towards democratization. By joining the Council of Europe in 1995, Ukraine has committed to key European and Western democracies values - human rights, democracy and rule of law.
- One of the main features of a society governed by the rule of law is absence of corruption. The definition of corruption goes far beyond briberies. It's also captures policies, the abuse of power and trading in influence.
- Corruption is a stumbling block to promoting the rule of law in Ukraine. It slows down economic development, deteriorates investment climate of the country. It also leads to low trust of the society in public authorities.
- Wide spread corruption was one of the main reasons that caused public protests during the Revolution of Dignity. According to Global Corruption Barometer survey carried out by Transparency international in 2013, 36% Ukrainians were ready to take to the streets in order to fight corruption. All previous efforts and anti-corruption strategies were rather formalistic. Some sporadic initiatives were driven by civil society predominantly.
- From the legal point of view, during last 15 years, Ukraine has undertaken a number of international commitments to fight corruption.

#### **International anti-corruption commitments of Ukraine**

- In 2009 Ukraine ratified United Nation Convention against Corruption. This document obliged member states to adopt coordinated policies that prevent corruption and

designate bodies that oversee their implementation. The majority of anticorruption preventive measures under this international treaty were touched upon in 2014 Ukrainian anti-corruption legislative framework, namely: conflict of interest regulations, effective access for public information, transparent procurement, independent judiciary, involvement of civil society in preventing and combating corruption.

- Ukraine is also a member of Council of Europe Criminal Convention on Corruption, ratified in 2009; Civil Law Convention against Corruption, ratified in 2005 and various soft-law standards – Council of Europe Committee of Ministers Recommendations on 20 principles of fight against corruption 1997, CoE Recommendations on Codes of Conduct for Public officials (2000).

Since 2006 Ukraine is also a member of the Council of Europe corruption monitoring body - Group of States against Corruption (GRECO). After six years and several evaluation rounds in 2014 Ukraine managed to implement only 13 recommendations out of 25 provided by GRECO, bringing the anticorruption reform on the top in reform agenda.

#### **Anticorruption Reform agenda of 2014**

- After the 2013-2014 events, the need for anticorruption reform was reflected in Reform Strategy of Ukraine and other strategic documents, including Association Agreement between the European Union and Ukraine.
- And now the success of fighting corruption depends not only on the strong political will for changes and readiness for difficult choices (which is very important as we see when looking at the practices of corruption fighting in Georgia or Poland), but it largely depend on constructive and effective cooperation and dialogue between various institutions, the Government, the Parliament and civil society, openness and transparency of public institution, introducing effective monitoring mechanism.

#### **Anticorruption Package**

- On October 2014 the Parliament adopted the Anticorruption Package of Laws:  
- the Law on the specially authorized anti-corruption bodies, which provides for the

establishment of the National Anticorruption Bureau. The Bureau will supplement the existing system of law-enforcement bodies, being authorized to investigate crimes committed by high-ranking officials and preventing new crimes;

- the Anti-Corruption Strategy (a document with clearly established goals and indicators);
- the Law on Prevention of Corruption.

I would like to mention few corruption prevention measures and institutions introduced by the law on Prevention of Corruption.

### **Establishing the National Agency for Prevention of Corruption**

- The Law provides for the establishment of the National Agency for Prevention of Corruption, designed to ensure implementation of the public anti-corruption policy. The Agency is a collegiate body, established by the Cabinet of Ministers and responsible to the Parliament. Currently, it is important to ensure that the leadership is selected and appointed according to international standards, in particular, Jakarta principles, ensuring the impartiality and integrity.
- The Agency will have a broad scope of responsibilities, starting from corruption research and analysis, coordinating of implementing the anticorruption policy, control of assets declaration (monitoring of declarations and lifestyle of civil servants, representatives of self-government, verification and disclosure of declarations on a single web-portal (it might be technically challenging to introduce it online as the number of civil servants in Ukraine 700 000 while in Georgia for instance 3 000); protection of whistle-blowers, endorsement of anti-corruption programmes, to be adopted in all public agencies, and public awareness raising.
- There will be a public oversight over the work of the National Agency, carried out by Public Council, consisting of 15 members. The 2015 state Budget allocated for the agency in 2015 is about EUR 6 000 000 for the start of the work, which was initially

scheduled for July. Currently there timely establishment and beginning of work by the agency, including granting the premises, is slightly shifting.

### **Establishing corruption preventive measures**

The Law on Corruption prevention outlines many important measures to prevent corruption including:

- ***Reform of the civil service.*** The draft law is prepared, aimed at introducing rules for recruitment, promotion, disciplinary actions and dismissal of civil servants. Competitive salaries for civil servants should be introduced. The current average salary in Ukraine is about 3,500 UAH (EUR 180). A minimum salary rate for a chief specialist in state administration (in accordance with the 2015 report of the Organization for the Economic Co-operation and Development - OECD) is EUR 84. This is why the civil service does not appeal for qualified professionals and has potential corruption risks.
- ***Providing legal framework for conflict of interest.*** In progress report on implementation by Ukraine the Visa liberalization Action Plan in 2012 the European Commission noted that Ukraine needs to introduce clear provisions on effective mechanisms for prevention, monitoring and verification of conflict of interest. In November 2013 the European Commission noted that there is no independent verification in place.

According to the new Law on Prevention of Corruption the definition and the mechanism to resolve the conflict of interest is clearly improved. The conflict of interest is defined as contradiction between private interest of a person and his/her official activities and the persons under the law are obliged to report on the cases about real or potential conflict of interest.

With the international standards in this area and in particular OECD (Organization for Economic Co-operation and Development), guidelines, there is only misses an element of

“apparent conflict of interest” which is the situation “where it appears that a public official’s private interests could improperly influence the performance of their duties but this is not in fact the case”.

The Law defines the bodies responsible to control conflict of interest rules (for Judges for instance such body will be Council of Judges (judicial self-government body). Detection of conflict of interest was also included in the mechanism for verification of asset declaration.

Largely it is compliant with the good international practices and provides clear instructions – subjects to this law who are obliged:

- 1) To take measures to prevent occurrence of real or potential conflict of interest
- 2) To report - no later than the next business day about having a real or potential conflict of interest – to the immediate supervisor or if the person holds the position that does not provide for having an immediate supervisor or the position in a collective body – to report national Agency or the other authority where the conflict occurred.
- 3) Not to take actions under the conditions of real or potential conflict of interest
- 4) To take measures to address real or potential conflict of interest.

- ***Protection of whistleblowers.*** According to the Law on Prevention of Corruption, the whistle blowers are the persons who report violation of the Law, having reasonable belief that the information is accurate. The information about whistleblowers may be disclosed only upon his/her consent with some exceptions stipulated by law as these persons are under state protection.

Now when the legislative framework is in place the next step should be providing practical guidelines how the protection to be provided. The Law outlines that such persons cannot be

discharged or forced to resign, brought to disciplinary liability in connection with their notification.

The National Agency on corruption prevention and other state authorities will provide conditions for their employees to notify about violations of the Law through phone lines, official websites and electronic means of communication.

It is worth mentioning some other important corruption prevention measures established by law and best on best international practices.

- ***Development of Anti-corruption programs for public and legal entities.*** The Law provides that legal entities must develop and implement anti-corruption programs. Specifically it applies to:

-any legal entity engaged in public procurement (if the cost of procurement is equal to or over UAH 1 000 000 for the procurement of goods, and UAH 5 000 000 for the procurement of services);

- any public/municipal company or business (having public/municipal share over 50%) with more than 50 employees, and over UAH 70 000 000 of gross sales.

- ***Introduction of restrictions on receiving gifts to persons entrusted with state duties.*** The Law also lists requirements for any gift that may be accepted by government officials. In particular, such gift must comply with the generally accepted idea of hospitality and its maximum one-time value must not exceed one minimum monthly salary (approx. EUR 50).

- ***Anticorruption expertise of draft laws. Mandatory expertise is being carried out by the*** Ministry of Justice, Parliament and civil society think-tanks. According to the statistics, provided by NGOs engaged in the anticorruption expertise, 84% of analyzed draft laws

possess corruption risks factors. Therefore the quality of legislative drafting process should be enhanced.

To conclude I would like to say that in terms of legislative framework, Ukraine has made a breakthrough in brining and developing the legal framework in line with the international standards. Now it is equally important to:

- Ensure that the laws and all the steps envisaged by the Anti-corruption Strategy are implemented
- Ensure timely start of functioning of Anti-corruption institutions, envisage transparent selection process of heads and collegial bodies in these institutions
- Ensure constant dialogue between country leadership and civil society, developing institutionalized mechanisms of such co-operation
- Put equally strong efforts in prevention and punishment of corruption
- Ensure development of clear methodologies and guidelines aimed at effective implementation of the anticorruption framework, compliant with the legislation on personal data protection and human rights protection standards
- Ensure substantive research and analysis to develop further anticorruption effective strategies
- Develop public awareness campaigns to develop a zero tolerance towards corruption among the public.

I would like to thank once again the organizers of the important and timely event and thank you for your attention.

**Systemic Corruption**

Society/community considers corruption  
Normal and/or unavoidable

There is no system of rules, regulations and mechanisms  
Designed to prevent and avoid corruption  
That is actually implemented to perform  
That task

There does not exist a system of effective law enforcement  
To which witnesses and/or victims of corruption  
Can bring information and that can be expected  
To investigate, fairly prosecute and fairly punish  
Genuine perpetrators of corrupt acts

Corruption is widespread and endemic

**Episodic Corruption**

Society/community views corruption  
to be *abnormal* and *unacceptable*

There *does* exist a system of rules, regulations and  
mechanisms to prevent and avoid  
corruption that is effectively implemented

There *does* exist a system of effective law  
enforcement that investigates, fairly  
prosecutes and fairly punishes those who  
are actually guilty of corrupt acts

Corruption is limited; when there is evidence of  
corrupt acts, such are investigated,  
prosecuted and punished



*Bohdan Vitvitsky, Prague Corruption Forum, July 2015*

To succeed in moving a country from a condition of systemic corruption to episodic or manageable corruption, that is, to significantly reduce the level of corruption, there must be simultaneous movement in three different areas, that is, it is necessary to:

1. Change societal attitudes and expectations as to the acceptability of corruption;
  2. Address imbalances in compensation for public servants, particularly judges and prosecutors;
  3. Create an effective law enforcement system that can also gain and hold the public's trust, one that is capable of fairly investigating, prosecuting, judging and, where justified by a verdict of guilt, punishing those involved in corruption;
- To implement the third component of this triad of necessary elements to reduce corruption, it is at a minimum and as a short term solution necessary to:
- a) create/establish a unit of detectives and analysts that can honestly and competently investigate allegations of corruption (NAB);
  - b) create/establish an independent unit of prosecutors that is capable of honestly and competently assisting in investigating and then prosecuting cases of corruption;
  - c) create/establish an independent unit of judges that is capable of honestly and competently conducting corruption proceedings and trials and, if there is a verdict of guilt, imposing punishment (create a special corruption unit consisting of, say, 9 trial judges and 3 appellate judges?);
  - d) make all court proceedings open to the public (March 28, 2015, fair trial law);
  - e) utilize citizen juries;



## **THE MEDIA ROLE IN REVEALING OF THE CORRUPTION SCHEMES IN UKRAINE**

Good afternoon, colleagues!

Despite the victory of the Revolution of Dignity, the process of changes of the old state system are moving reforms very slow in Ukraine.

Main burden in moving reforms is the is the inheritance of Sovietism such as corruption, criminal schemes plundering of public money.

De jure law enforcement agencies are investigating many cases concern the facts of abusing officials.

However, de facto such investigations are often delayed for a long time, they come in a remote corner and even to say more the facts of corruption are simple not to show.

But after year and a half of post-revolutionary times, civil society enhanced their own power in Ukraine. Journalists and civil society activists give publicity facts of the egregious violations of the law.

And then law enforcement agencies have to open criminal cases. And filthy corruption officials lose their positions.

Ukrainian journalism has its problems too. Main problem is that the most media are privately owned entities.

Basically it's the oligarchs and the richest men who have received their money in different ways. They directly affects the information policy financing newspapers, TV-channels and internet sites.

However, it should be noted that since February 2014 the first time since Ukrainian's Independence, Ukrainian journalism has received actual freedom: freedom of expression, freedom of reportage, freedom of thought.

The issue of corruption is one of the main themes that are constantly in the focus of journalist's attention.

So we have achievements. I'll tell you a few the most interesting examples.

### **THE FIRST STORY: “BODY ARMOURS”**

In April 2014 since the beginning of military operation in Donbass, Ukraine Government has increased the cost of providing the Army.

Our country is peaceful country. Since the beginning of Ukrain's Independence it didn't take part in any military operations except peacekeeping missions only.

So, to be honest about it, Ukraine Army was not ready for full-scale hostilities. In additions to a lack of military equipment and am-munitions, the fighters have lacked uniforms, body armours and helmets. In the first days of war in Donbass the soldiers of Armed Forces of Ukraine and fighters of volunteer battalions had to spend their own money to buy those

things. Volunteers supported them too. They collected donations among Ukrainians.

However, in March 2014 Power has allocated 33 millions for defence cost and Ministry of Defence has received a lot of money.

In particular money for staffing army including body armours.

## **PHOTO 1**

On the 20<sup>th</sup> of June, 2014, since 4 months after allocation money, ex acting minister of Defence Mihaylo Koval speaking to deputies from tribune of Parliament complained of the inability of the Ministry of Defence to buy body armours for fighters, because of The Antimonopoly CommitTEE has blocked the purchase of the whole lot of body armours.

## **PHOTO 2**

The Speaker of Ukrainian Parliament was offended and at once he appealed with requirement to The General Prosecutes investigate this fact.

However, journalists started their own investigations. In particular journalists of site “Our money” found out four very important points.

## **SKRIN “Our money”**

At first The Ministry of Defence delayed for a long time the process of purchase of body armours for unknown causes.

At second the price of body armours, which were purchased by department, were overpriced in official documents. The price ranged from 1, 5 (one and half thousand) dollars till 400 (four hundreds) dollars, but at the same time it was possible to pay only 250 (two hundreds and fifty) dollars.

At third before sending some lot to the front, those special devices were not tested by anybody. The whole quantity of such unreliable body armoure was more than 17 (seventeen) thousand pieces, but the department paid 6 (six) millions dollars.

At fourth the purchased part of body armours were lower quality than those which were needful for Ukrainian soldiers in Donbass.

By the way the part of purchased body armours didn't provide complete protection of soldier's body specifically neck and groin. Those body armours were cheaper and Ministry of Defence decided to save money. A month later it became known that the least 67 (sixty seven) fighters, who wore such light body armours, were wounded directly in unprotected parts of the body. Some of these boys died of wounds.

Returning to the speech of minister, journalists made obvious conclusion. The appeal of Myhailo Koval to Ukrainian Parliament was actually an attempt to divert attention of civil society from the real problem, because it is in his department:

- the first – delayed the purchase on needful equipment for fighters;

- the second – bought sub standard goods;
- the third increased prices, may be, plundering money.

As a result of such showed information is dismissal of minister.

Let`s remark: the minister was dismissed not only because of this story, there were other violations too.

Soon officials, who were responsible for purchase of body armours at Ministry of Defence have been dismissed.

Besides especially after revealing these violations, volunteers and activists of NGO were invited for cooperation to Ministry of Defence.

Since, during purchase of equipment and ammunition, volunteers follow the legal process of purchase.

## **THE SECOND STORY: “THE OFFICIALS` RELATIVES”**

The journalists of the investigative journalism bureau of different Ukrainian`s media constantly try to find out the information about finance and property of senior officials. Often it turn out that according the official declaration an official has only salary. But he lives in luxurious apartment, has his own fleet and his children lead glamorous lives.

## **THE STORY OF THE OFFICIAL SERHIY CHEBOTAR**

In spring 2015 the journalists of investigative bureau of TV - chanal “ZIK” came to place of Deputy Interior Minister Serhiy Chebotar.

### **PHOTO 3**

TV- channel crew came there to get official information. For the full 2014 year the official earned a big more 8 (eight) thousand \$. But according to Register Property the official`s family owned 3 (three) luxurious houses, which occupied the territory of 180 (hundred and eighty) square yards in Lisnyky village near Kyiv.

On the eve of the trip the journalists found out that the forest on the outskirts of the village, where centenarian oaks were growing, had offered to make the conservation area some years ago.

### **PHOTO 4**

But in 2010 by request of Serhiy Chebotar, who held another high post at that time, the idea about conservation area was not realized. This forest area in Lisnyky village lost conservation status, then oaks were cut and on its site elite town-houses were built.

So, on the 28<sup>th</sup> of April, the TV-channel crew drove up to the house in Lisnyky village, which according public information, officially belonged to Serhiy Chebotar`s daughter Oksana.

### **VIDEO 1**

In the yard the camera fixed a car, which belonged to the wife of the official. Two men went out to the meeting with journalists and after



threatening hit on the correspondents. They beat the operator, first crashed and then robbed the camera. The journalists called the police.

Next day Mr. Chebotar announced that the house where the journalists had come, belonged neither to him nor his relatives. He blamed the TV-channel “ZIK” in distributing untrue information.

Despite Chebotar’s explanations, the fact of beating of TV-channel crew made resonance in society.

A week later of these events, on the 5<sup>th</sup> of May, Committee for Combating Corruption required from Chebotar’s chief (Interior Minister) investigate this fact.

During investigation, on the 12<sup>th</sup> of May, in on-line broadcasting, TV-channel “ZIK” showed a half – hour program devoted scandal with the official’s participation.

In on-line program the presenter Denis Bigus proved that the luxurious house built on the site of cut trees belonged to Chebotar’s daughter and her husband is one of the cockerels, who beat the operator.

To tell more the journalists found out that Chebotar’s son -in -law had illegal transportation business. And Deputy Interior Minister Serhiy Chebotar covered over the illegal corruption schemes.

All these facts were confirmed by documents. Next morning, on the 13<sup>th</sup> of May Serhiy Chebotar resigned from his post, and on the 14<sup>th</sup> of May The Government dismissed him.

As for the corruption schemes, which he and his son -in – law invented, they are now being investigated.

## **THE STORY OF THE OFFICIAL OLEKSANDR YERSHOV**

Another story about glamorous lives of Ukrainian officials.

### **PHOTO 5**

On the 4 of April 2015, Oleksandr Yershov was appointed the Head of State Auto Inspection. Before he headed the State Auto Inspection in native region of Interior Minister (in Kharkiv region). Yershov, who had worked in Law Enforcement agency, last time declared his incoming in 2013.

According to the official information he earned 18 (eighteen) thousand dollars for full year. Also the document indicated that neither he nor his relatives owned houses and plots of land.

In 2014 the official didn`t advertise his declaration at all.

The journalists of investigation program “Schemes”, on Ukrainian “Radio Freedom” decided to fill the gap. But when they asked the new Head about his finance, he gave a strange answer.

Yershov not only not submit his own declaration on journalist’s information request, but he ordered to all management of his department to withhold their own finance and incoming.

## **PHOTO 6**

Then the journalist Serhiy Andrushko, who was investigation this fact, collected data, as they say, from open sources (from Facebook and Instagram’s pages of his two daughters Anastsiya and Darina). It became clear, that Yershov’s wife Oksana drives a car LEXUS cost 70 000 (seventeen thousands) dollars. And his senior daughter Anastasiya drives a car Porsche Cayenne cost 130 000 (one hundred and thirty) dollars.

## **PHOTO 7**

Junior daughter Darina Yerschova drives a sport car Range Rover cost 100 000 (one hundreds thousands) dollars. Except photos of their fleet, Yershov’s daughters put on public display a heap of photos from travel in social network. They fly business-class there and stay at five – star hotels.

## **PHOTO 8**

So, judging by Instagram of Anastasiya Yershova, for the last half a year she visited at least 9 (nine) countries in different parts of the planet such as:

## **MAP**

## **PHOTO 9**

At the moment of the journalist`s investigations Anastasiya was visiting Cannae, from whence she published a photo with Peris Hilton at the party.

### **VIDEO 3**

The journalist also found out, that it had been allocated a plot of land in the name of Yershov`s wife Oksana, in 2008, near Kyiv. Having gone to the adress, Andrushko saw three-storeyed house. Neighbours confirmed that the Yershovs` family lives here last 8 (eight) years.

After two materials on “Radio Freedom” May 15 and 19 (fifteen and ninteen), Oleksandr Yershov had to resign. Ministry of Internal Affairs is investigating now.

### **THE THIRD STORY: AMBER**

Illegal business is booming in Ukraine. Its value is half a billion dollars a year. It`s extraction of amber. Deposits of amber are in the three regions of Ukraine: Zhitomir`s region, Rovno`s region and Volyn region. Today 2 (two) companies officially extract amber in Ukraine: “Ukrburshtyn” and “Amber of Ukraine”. Since 2003 one of them is in the process of bankruptcy. Today its debts account for more than 300 (three hundred thousand) dollars. Together for a year they get 4.5 (four and half thousands) pounds of amber. Where profits from the illegal extraction of quarries are more then 132 (one hundred and thirty two) pounds.

The intermediators buy contraband gem and export it to different parts of the world from Europe and China to Near East. One kilo of amber is 6 (six

thousands) dollars on the illegal market. Besides that the state budget hasn't a single penny from the shadow business, the barbaric method of production destroy nature at the site of quarries.

The theme of illegal amber's business is painful subject for Ukrainian journalists.

So, in the 90-s (nineties) this problem was not made public, but last years each "amber" material made a great resonance in society. But not once the police didn't start full investigation.

#### **VIDEO 4**

In may this year already known program "Schemes", which goes on "Radio Freedom" investigated this fact. The "Schemes" crew led by journalist Denis Kazanskyi came to the quarry in Oleksiyvskiy's district in Zhytomir region. What they saw was like Armageddon: a huge territory of destroyed relic forest, on the site which is now ditches of dirty water and blurred pits.

Illegal production technology is very simple. First over deposits of amber destroy the forest with all birds and animals. Then they excavate a huge canal according to which from the nearest pond run water. The flow of water washed away the sand, and amber, which lighter than water, brings to the surface. People catch amber in the nets of its murky soup. Only one station, which the journalists saw, has about 60 (sixty) such pumps.

When the journalists called the police to the place of illegal working, the staff was kind of confused. The staff of Ministry of Internal Affairs behaved like criminals caught in the hot. On call of journalists the local governor Sergiy Mashkovskiy and the police chief of the region Valeriy Rudyk arrived on the crime scene. But they couldn't provide adequate explanations why Mafia behaved too loose in Zhitomir region.

The story about amber's Armageddon caused a great resonance in society. Finally, on the 10<sup>th</sup> of July President Petro Poroshenko appealed to Interior minister Arsen Avakov with requirement to find a solution till July 17 (seventeen). But any investigation's results have not been announced yet. And 3 days ago Ministry of Ecology and Natural Resources froze the issuance of licenses for production of amber. Finally the Ukrainian Parliament prepares to adopt a law, which defines the rule of production and sales of semi-precious stone.

## **THE FOURTH STORY: PROSECUTORS – GRAFTERS.**

And the last revealing story, which happened on the eve of our Forum.

On the 5<sup>th</sup> of July Security Service of Ukraine conducted a special operation. Two Prosecutors were detained: First Deputy Head of Investigations Department of General Prosecutors Office Volodymyr Shapakin and Deputy Prosecutor of Kyiv region Olexandr Korniets.

The formal reason for the detention was a complaint of a businessman, who complaint to Security Service of Ukraine, that the Prosecutors

extorted him a bribe – more than one hundred and thirty thousands dollars. After Sshapakin`s and Korniets`s detention special forces soldiers «Alfa» raided in their offices and houses. During the search were found:

- Five hundred thousands dollars
- Documents for bank deposits in the amount of thirty five thousands dollars
- Firearms
- A substance of white colors similar to a drug
- Volodymyr Korniets had sixty five diamonds, which were neatly stacked in thirty five different bags.

First the information about detention wasn`t placed on the police internet site. But ex-journalist and now deputy of Ukrainian Parliament Mustafa Nayyem made public it`s on his Facebook page, referring to his sauces.

### **SKRIIN FB MUSTAFA**

The information had the effect of bombshell.

So, new Ukrainian Power all time says, that its first task is combating corruption. And General Prosecutor`s Office is this authority, which has to investigate corruptions schemes.

All Ukrainian media published the information from Facebook of Mustafa Nayyem.

Business was gaining momentum. But during some days the story developed in a similar scenario.

Though, the prosecutors-grafters, who were under investigation, were not dismissed. It was opened cases against the investigators, who had resolved to begin this investigation and detain those grafters. Real conflict began in General Prosecutor’s Office. Personally General Prosecutor Viktor Shokin tried to press on the run of investigation. But civil society and journalists worked together making the information public and spoke in one voice.

### **PHOTO of performance**

Finally President Petro Poroshenko took the case under his personal control. Prosecutors – grafters were dismissed at last. And President held a public meeting between two senior officials in General Prosecutor’s Office, who relatively speaking, entered into confrontation. Money and diamonds should be returned to the state budget of Ukraine.

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All that I told you this is the most interesting and successful stories of revealing the corruption schemes with participation of Ukrainian journalists.

Frankly speaking, at the same time is a heap of another stories about Ukrainian corrupts. Most of them had been brought to court. But the persons under investigations either fled the country OR the investigation is delayed for a long time. For example, still not punished ex-President Yanukovych officials time.

### **PHOTO**



Azarov, Bogatyreva, Kluev, Pshonka, Yanukovych family and other lead calm lives abroad, primarily in Russia, despite of allegations against them and revealing of the corruptions schemes, which they had designed before. It`s impossible now to return stolen money to Ukrainian people.

Furthermore, only in 2015, there were some cases, when Ukrainian officials were detained for bribe. The court allowed them to make millions bails. Then they left the jail, crossed the border and in such way evaded Ukrainian Justice.

However, as I told you before, Ukrainian journalists and NGO took under their control each of these cases. I hope that even in our lifetime these and other corrupts will be judged.

## **PHOTO**

And Ukraine Finally becomes a democratic state, where every citizen regardless of the position and earnings will be equal before law.

# THE MEDIA ROLE IN REVEALING OF THE CORRUPTION SCHEMES IN UKRAINE



On the 20th of June 2014 ex-acting minister of Defence Mihaylo Koval speaking to deputies from tribune of Parliament of Ukraine.



On the 20th of June 2014 ex-acting minister of Defence Mihaylo Koval speaking to deputies from tribune of Parliament of Ukraine.

Про "Наші гроші" | Контакти | Архів | Facebook | Twitter | RSS | Пошук по сайту...

# НАШІ ГРОШІ

Хто ховається у пентхаузі?

ГРОШІ ВІД КОЛЕГ | НАШІ БЛОГИ | **НАШІ ГРОШІ.TV** | НАШІ СТАТТІ | НОВИНИ | НОВИНИ РЕГІОНІВ | РЕГІОНИ | ХІТ-ПАРАД | НАШІ ГРОШІ ЛЬВІВ | НАШІ ГРОШІ ЗАПОРІЖЖЯ

## НОВИНИ

**18.07.2015**

На реконструкцію однієї вулиці в Броварах піде 35 мільйонів

**Яценюк розраховує, що LNG-термінал йому збудує маленька американо-грузинська фірма, яка не має такого досвіду**

Григорішинці продали чернігівським енергетикам бетону на 11 мільйонів

Прокуратура не змогла повернути державі 15 гектарів в районі Канівського водосховища

**17.07.2015**

**Суд заарештував «Межигір'я» Януковича**

У «Реєстр корупціонерів» Мініюсту замість топ-чиновників і нардепів внесли лікарів та голів сіл'рад

Как виглядит пустота на кримських пляжах прямо сейчас в сравнении с 2014 годом (фото)

**Родина судді Вищого спецсуду, не маючи бізнесу, придбала землі під Києвом на чверть мільйона доларів**

## Брехня про бронжилети для армії

21 червня 2014



Відсутність бронжилетів у бійців, які гинуть на Донбасі, голова міністерства оборони Коваль прикрив надуманим скандалом з оскарженням тендеру. Хоча винні лише військові бюрократи.

У п'ятницю, 20 червня спалахнув черговий тендерний скандал, пов'язаний із армією.

В.о. міністра оборони Михайло Коваль з трибуни Верховної Ради **пожалівся** на Антимонопольний комітет, який, на його думку блокує закупівлю бронжилетів, Мовляв Збройні сили України замовили 28 тисяч бронжилетів, «але на даний момент ми відчуваємо великий спротив щодо закупівлі бронжилетів». Приватна фірма, назву якої Коваль вимовив як «Арес», 18 червня оскаржила тендер і «тепер Антимонопольний комітет зупинив закупівлю, і ми кожного дня недоотримуємо бронжилети».

Це прозвучало як вибух. Кожен день звучать повідомлення про **загибель та поранення** українських солдатів, у яких **немає бронжилетів**. Тож ніхто не звернув увагу на брехню Ковалю, яка була зіткана з правди та напівправди, і всі гуртом кинулись полювати на відьом.

Голова Верховної Ради Олександр Турчинов почав вимагати від Генпрокурора Віталія Яреми карної справи проти антимонопольщиків. Прокурори миттєво порушили кримінальне провадження ледь не зраду батьківщини, бо вони «створили загрозу національній безпеці та обороноздатності країни, а також заподіяли істотну шкоду інтересам держави через підрив авторитету Антимонопольного комітету».

**Добре хоч арештувати нікого не встигли. Бо арешти треба проводити зовсім у іншому місті. А саме у тому, звідки й пролунало «держите вора».** Отже що відбувалось насправді – реконструкція подій на підставі офіційних документів, опублікованих у «Віснику державних закупівель».

Міністерство оборони **оголосило** закупівлю 25 тисяч бронжилетів на очікувану суму 118 млн грн. лише 12 травня. На той момент вже було відомо дві речі: бойовики на Донбасі воюють з

## НАШІ БЛОГИ

**Как виглядит пустота на кримських пляжах прямо сейчас в сравнении с 2014 годом (фото)**  
17 липня 2015

**Три рукостискання від крадіжки 2 мільярдів у Аграрного фонду до в.о. генпрокурора Гузира**  
07 липня 2015

## НОВИНИ РЕГІОНІВ

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**17.07.2015**

## The site "Our money"



SERHIY CHEBOTAR



The house in Lisnyky village near Kyiv



The program of “Nashi Groshi” on TV- chanel “ZIK”  
12/05/2015

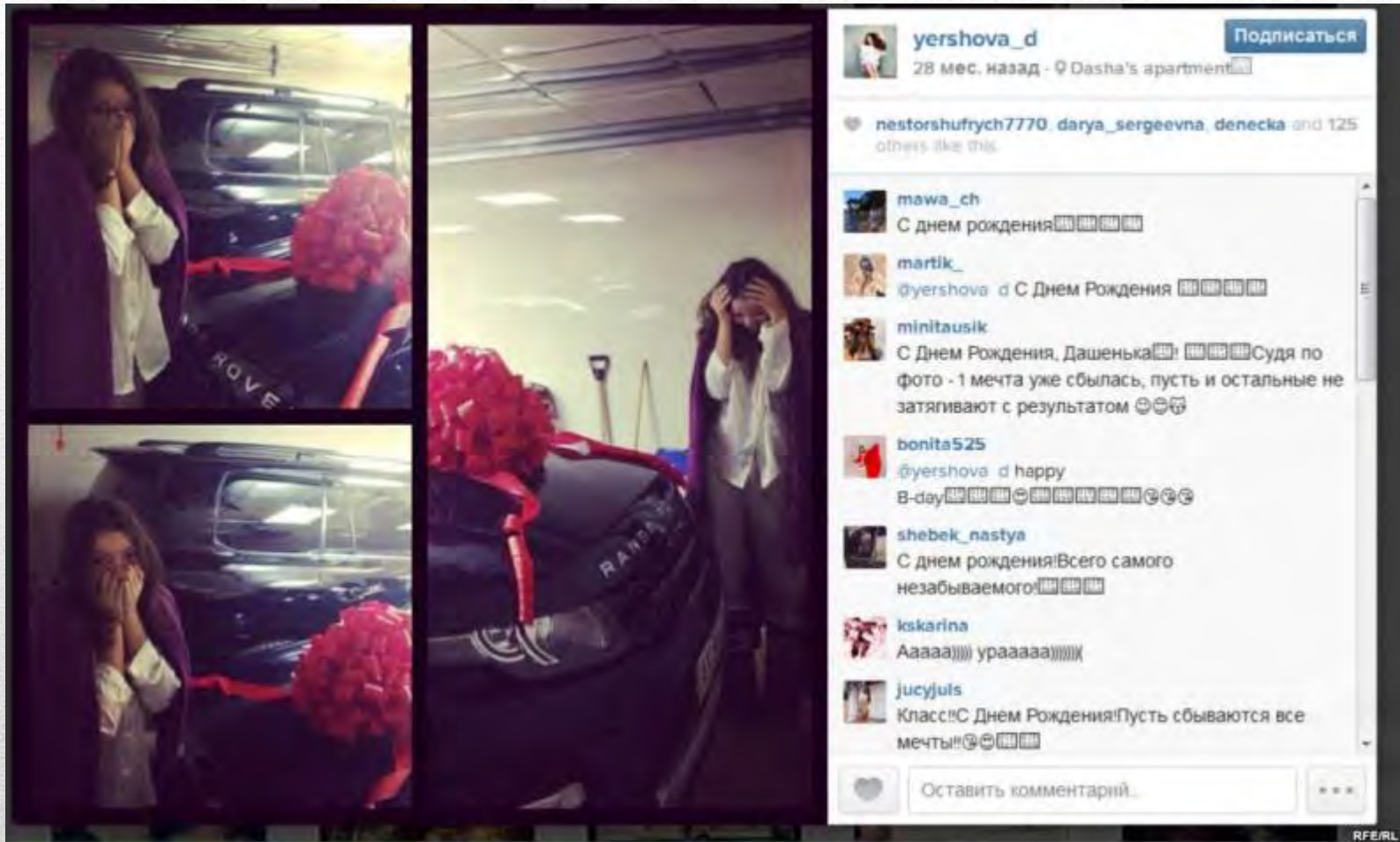




The program of “Nashi Groshi” on TV- channel “ZIK”.  
05/05/2015



OLEXANDR YERSHOV



## FB of Daryna Yershova

## АВТОПАРК РОДИНИ ВИКОНУЮЧОГО ОБОВ'ЯЗКИ ГОЛОВИ ДАІ УКРАЇНИ ОЛЕКСАНДРА ЄРШОВА



**Олександр ЄРШОВ**  
в.о. Голови ДАІ України

близько ~ **100 000\$**



**TOYOTA «Land Cruiser»** АХ 5550 ЕВ



**Оксана ЄРШОВА**  
дружина

від ~ **70 000\$**



**LEXUS RX 350**

**АА 3444 КЕ**



**Анастасія ЄРШОВА**  
старша донька

від ~ **130 000\$**



**PORSCHE «Cayenne»** АА 3444 МК



**Дарина ЄРШОВА**  
молодша донька

від ~ **100 000\$**



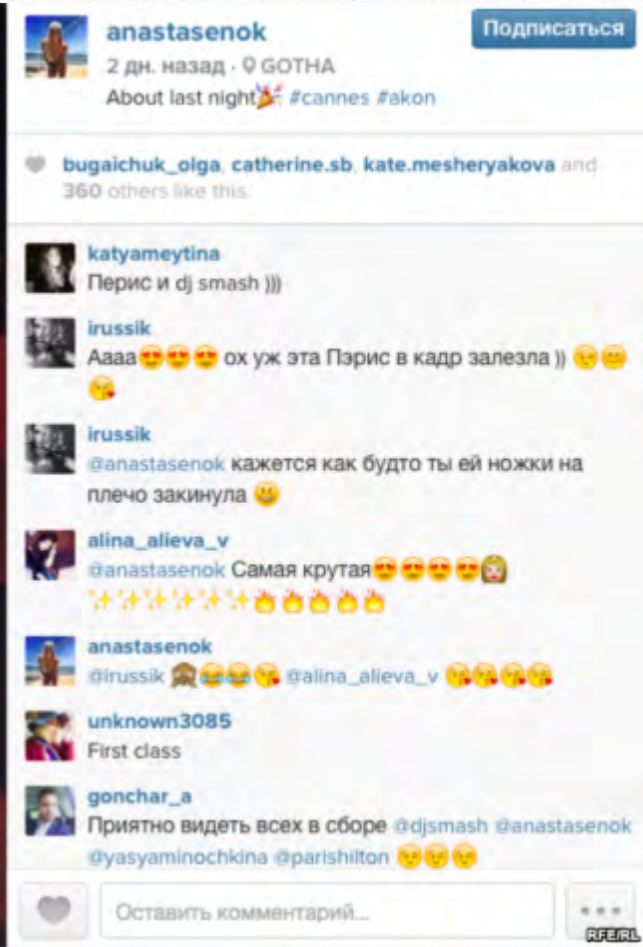
**RANGE ROVER «Sport»** АХ 3444 ЕР

\* приблизна вартість нового авто у офіційного дилера

### Yershov family's cars



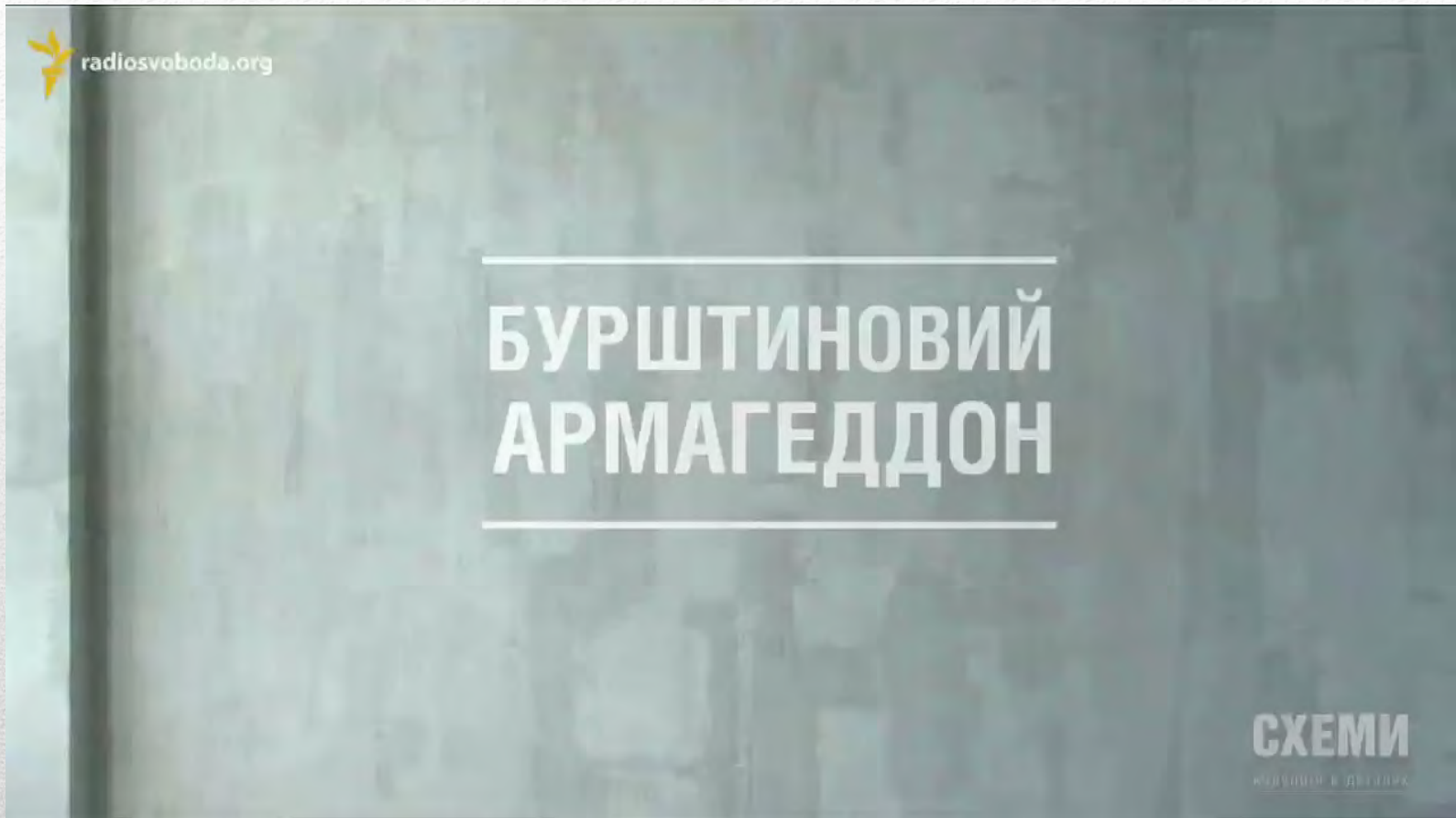
FB  
of  
Daryna Yershova



## FB of Anastasiya Yershova



## The program "Schemes" on Ukrainian "Radio Freedom" 14/05/2015



The program “Schemes” on Ukrainian “Radio Freedom”  
25/06/2015





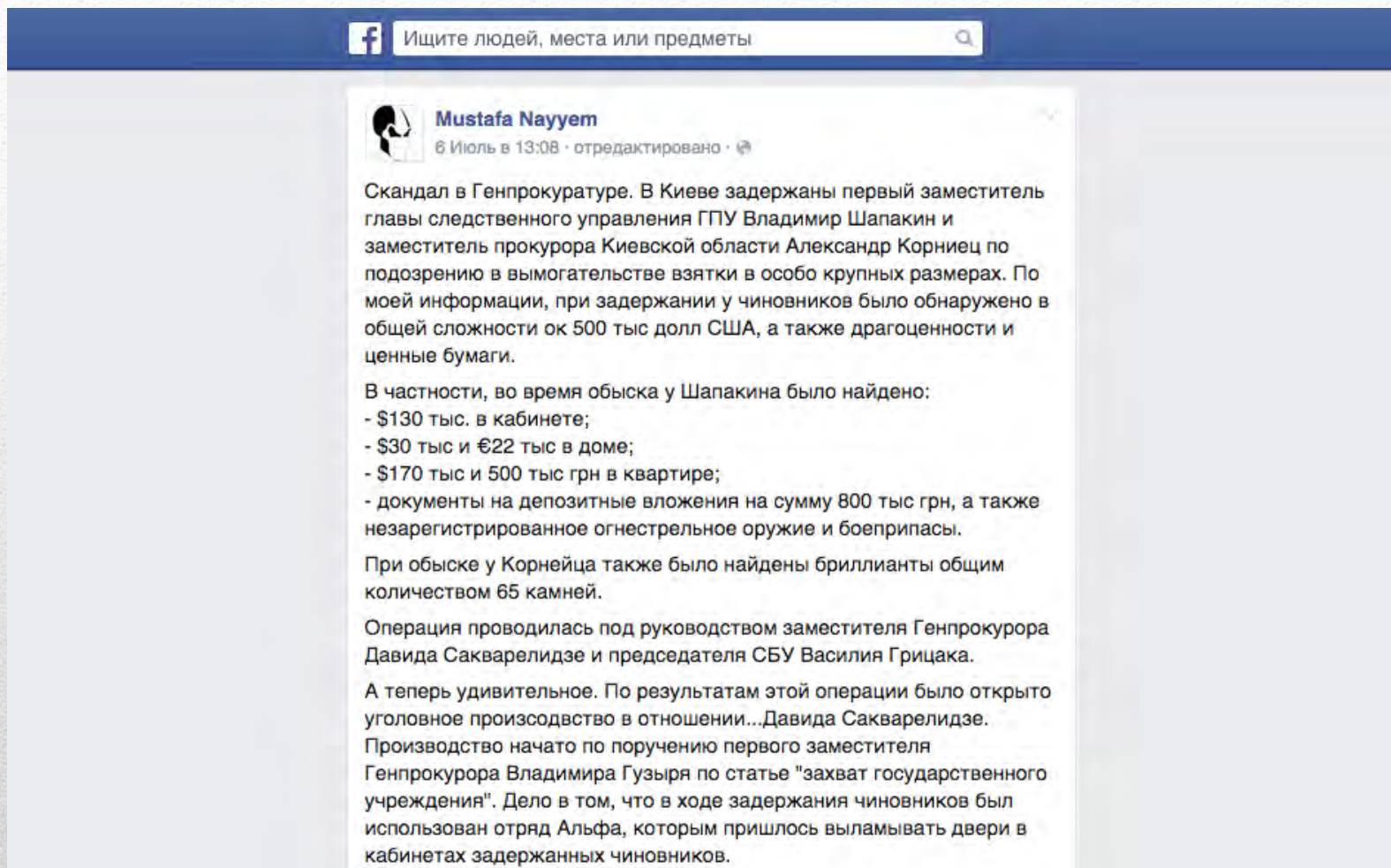
VOLODYMYR SHAPAKIN





OLEXANDR KORNIETS



## The material evidences in investigation



Ищите людей, места или предметы

 **Mustafa Nayyem**  
6 Июль в 13:08 · отредактировано · 

Скандал в Генпрокуратуре. В Киеве задержаны первый заместитель главы следственного управления ГПУ Владимир Шапакин и заместитель прокурора Киевской области Александр Корниец по подозрению в вымогательстве взятки в особо крупных размерах. По моей информации, при задержании у чиновников было обнаружено в общей сложности ок 500 тыс долл США, а также драгоценности и ценные бумаги.

В частности, во время обыска у Шапакина было найдено:

- \$130 тыс. в кабинете;
- \$30 тыс и €22 тыс в доме;
- \$170 тыс и 500 тыс грн в квартире;
- документы на депозитные вложения на сумму 800 тыс грн, а также незарегистрированное огнестрельное оружие и боеприпасы.

При обыске у Корнейца также были найдены бриллианты общим количеством 65 камней.

Операция проводилась под руководством заместителя Генпрокурора Давида Сакварелидзе и председателя СБУ Василя Грицака.

А теперь удивительное. По результатам этой операции было открыто уголовное производство в отношении...Давида Сакварелидзе. Производство начато по поручению первого заместителя Генпрокурора Владимира Гузыря по статье "захват государственного учреждения". Дело в том, что в ходе задержания чиновников был использован отряд Альфа, которым пришлось выламывать двери в кабинетах задержанных чиновников.

## FB of Mustafa Nayyem



## The performance of NGO "Anti-Corruption Action Center"



President of Ukraine Petro Poroshenko  
meets with Viktor Shokin and David Sakvarelidze



## Corrupted officials of Yanukovich's team



Officials who left Ukraine, fleeing the Ukrainian justice



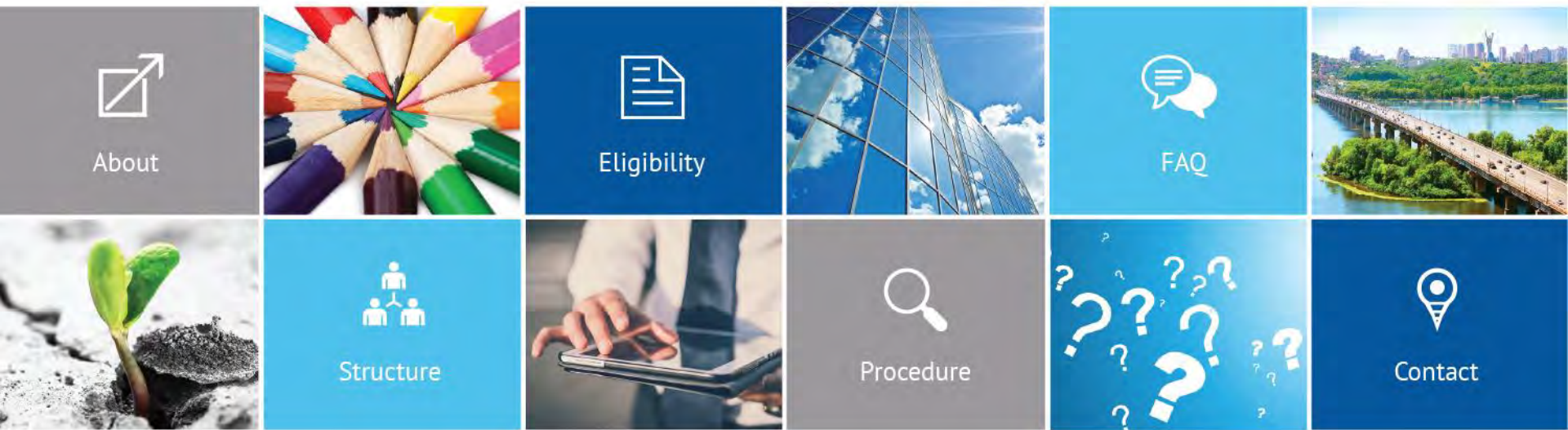


Svitlana Samoilenko





# Business OMBUDSMAN Council



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

## About

BOC is consultative and **advisory body of the Cabinet of Ministers of Ukraine**. Its mandate is to contribute to the transparency of the state, regional and local authorities, as well as state-owned and controlled companies and to help prevent corruption and other violations of the legitimate rights of businesses.

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

**The donors include** Denmark, Finland, France, Germany, Japan, the Netherlands, Sweden, Switzerland, the United Kingdom and the United States.

### Objectives:

- ✓ facilitate fighting corruption and other business malpractice.
- ✓ contribute to increasing investment attractiveness of Ukraine.
- ✓ promote a public service culture characterized by fairness, openness and accountability.



**Founded: December 2014**



# Structure





# Eligibility of complaints

## Check if your complaint meets the Council's criteria





# Submit a complaint via [www.boi.org.ua](http://www.boi.org.ua)



The screenshot shows the homepage of the Business Ombudsman Council. At the top left is the logo with the text "Business OMBUDSMAN Council". To the right are language options "UA | EN" and a search bar. A dark blue navigation bar contains the following links: "HOME", "ABOUT", "MAKE A COMPLAINT", "MEDIA & PUBLICATIONS", and "CONTACT". The "MAKE A COMPLAINT" link is circled in red, with a red arrow pointing to it from above. Below the navigation bar, the main content area features a large image of a green sprout. Text on the page reads: "Business Ombudsman Council is the first point of contact for companies seeking redress against unfair treatment". Below this is a green button labeled "Make a complaint" and a link for "Rules of Procedure".



## Who we are

The Ombudsman's objective is to facilitate fighting corruption, increasing investment attractiveness of Ukraine and to promote a public service culture characterized by fairness, openness and accountability.

## Popular Questions

[HOW CAN I ISSUE A COMPLAINT? >](#)

[WHO IS BUSINESS OMBUDSMAN FOR UKRAINE? >](#)

## News

July 6, 2015  
[BUSINESS OMBUDSMAN PAID A WORKING VISIT TO LVIV REGION >](#)

July 2, 2015  
[STATE REGULATORY ADMINISTRATION OF UKRAINE AND BUSINESS OMBUDSMAN COUNCIL SIGNED THE MEMORANDUM OF COOPERATION >](#)

June 24, 2015  
[BUSINESS OMBUDSMAN PAID A WORKING VISIT TO KHARKIV REGION >](#)

# Online complaint form

HOME | ABOUT | MAKE A COMPLAINT | MEDIA & PUBLICATI

## Online complaint form

In order to submit a complaint, please fill in the form below and attach documents which you deem appropriate to support your case. Our Office will register your complaint.

Find out if the Ombudsman can investigate your case by checking our [Rules of Procedure](#).

All complaints to the Ombudsman are strictly confidential. We require your contact information in order to respond

In what legal capacity are you filing this complaint form?

Natural person



## Contact details

\*required field

Please provide details about the person whom we can contact regarding the case.

\*Full Name

Position

\*Email

Phone number

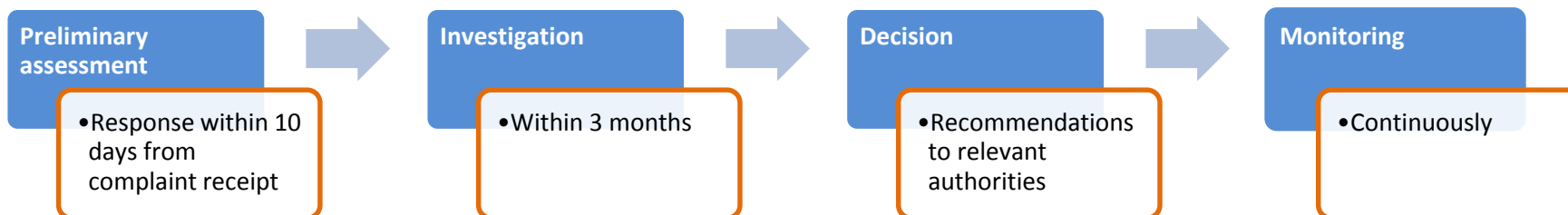
Address

<https://boi.org.ua/complaint/online>

- 1) Provide your contact details
- 2) Indicate the details of complaint
  - (i) Complainee name
  - (ii) Describe the matter you are complaining about
  - (iii) Indicate what you want Business Ombudsman to do to put things right
  - (iv) Indicate if we have tried to solve the issue yourself

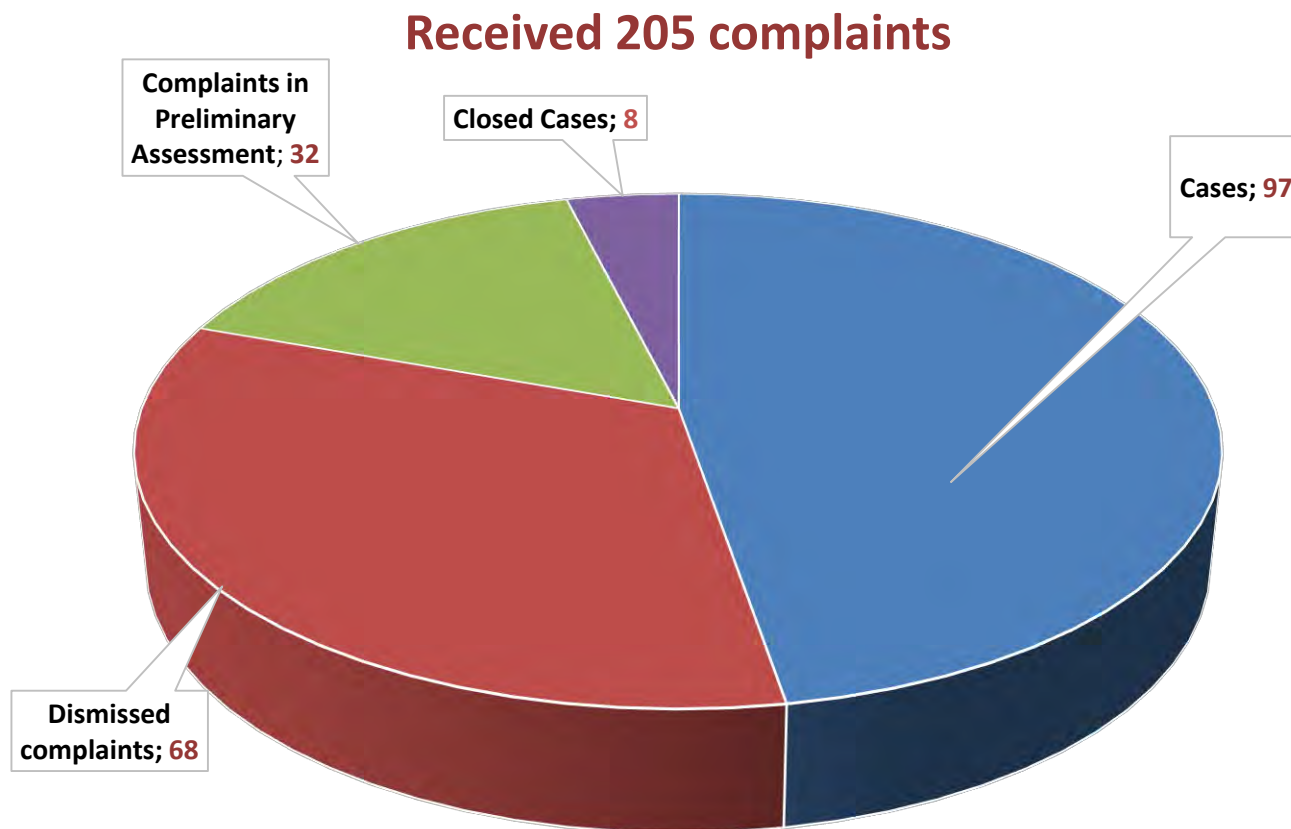


# How we process your complaint





## Results of complaints review – 15 July



## Success Stories

A large sum of VAT refunded to several taxpayers

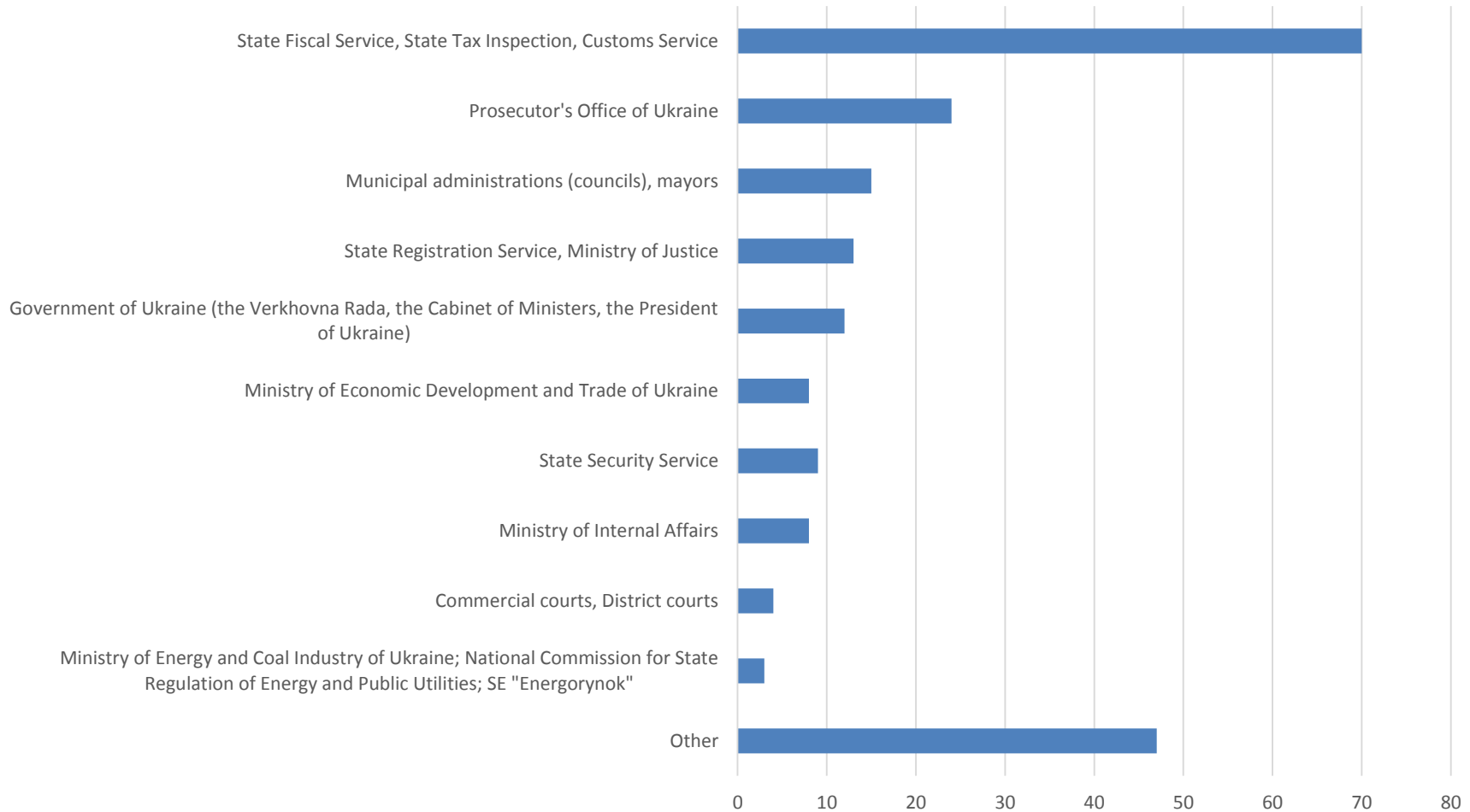
Pretrial criminal investigation as regards large enterprise has been terminated

Resolution of Ukrzaliznytsia on return of rolling stock from Crimea has been revoked

Official apology of the General Investigation Department of the Ministry of Internal Affairs of Ukraine to the particular business

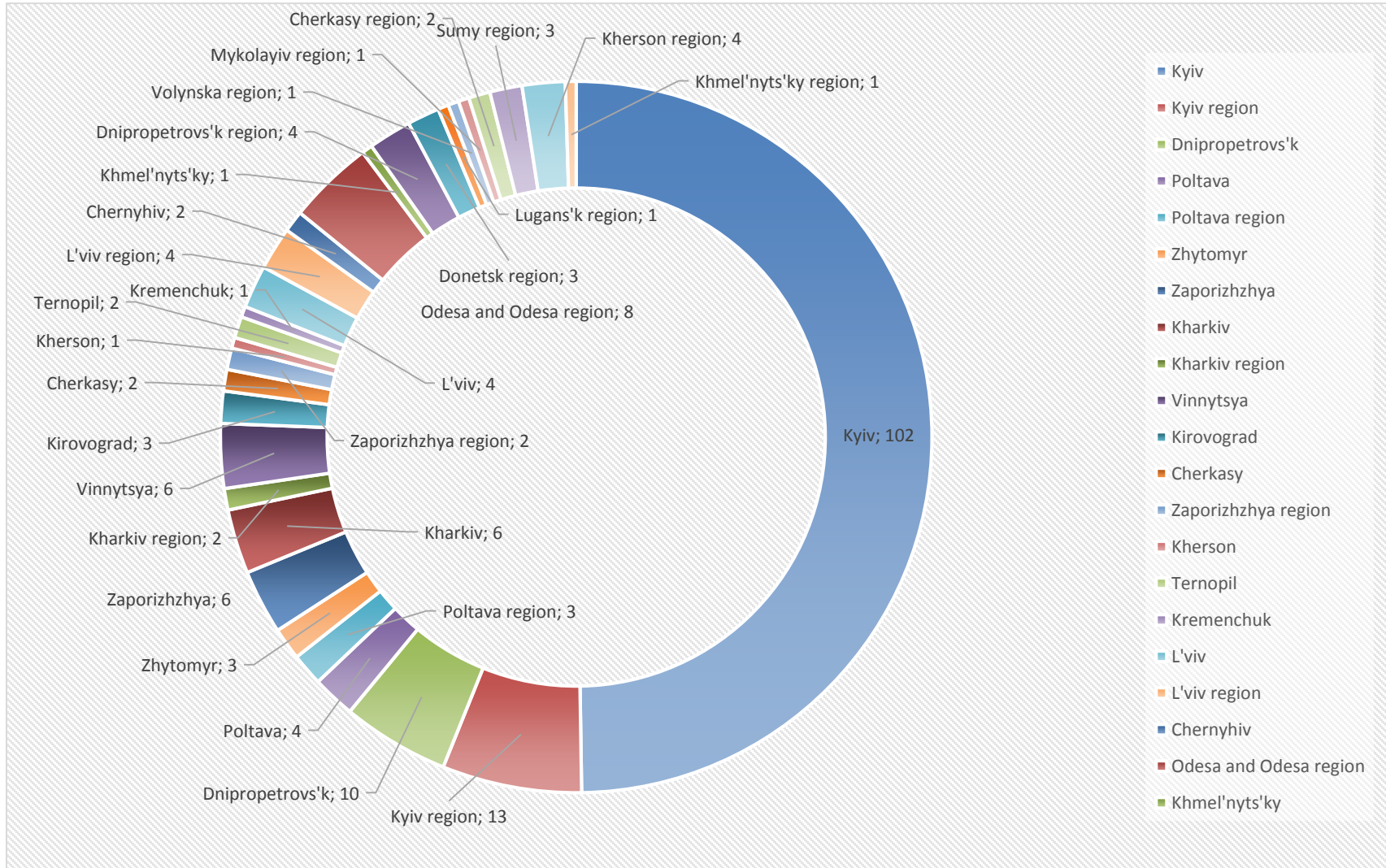
Changes to the regulation of the beer market that have been passed to Verkhovna Rada due to our furtherance

# TOP-10 Complainees

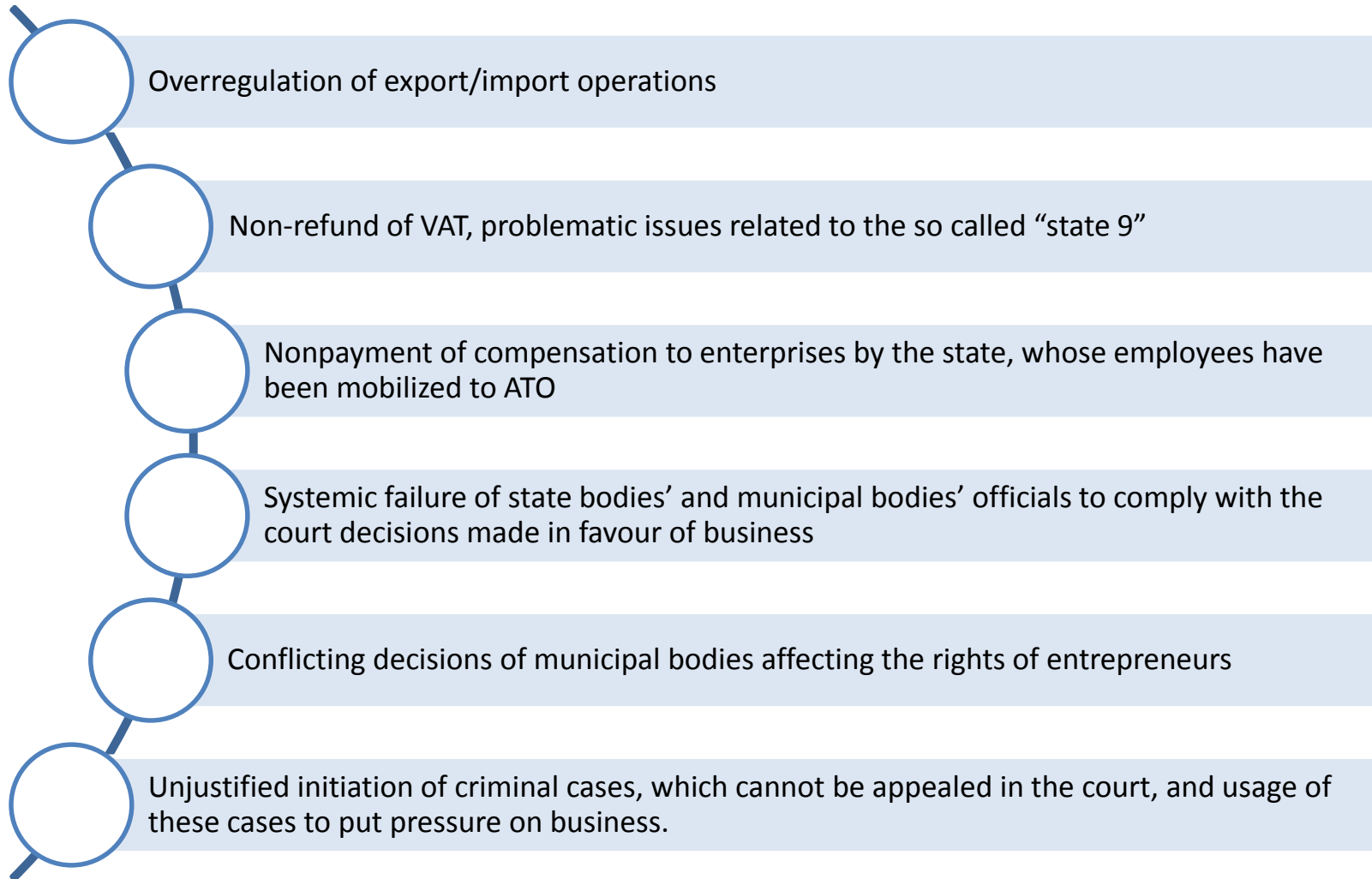


*\* Some complainants refer to several complainees.*

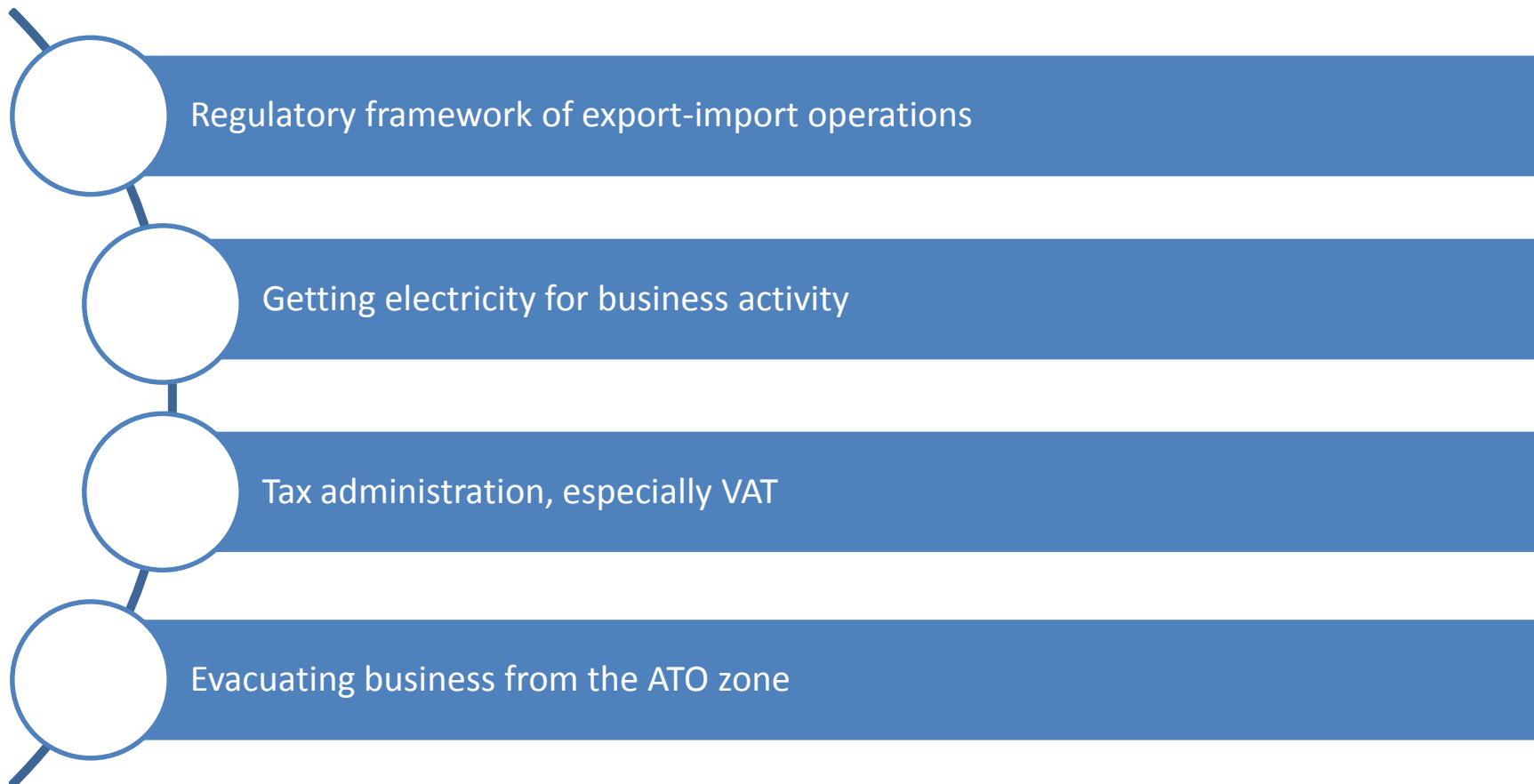
# Geography of complaints



## Systemic issues



## Systemic recommendations underway



## Communications and Outreach

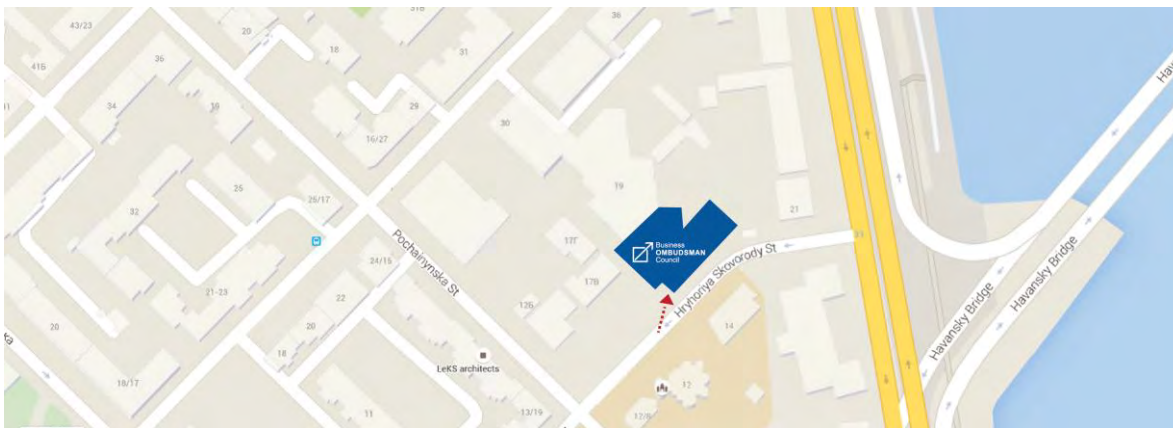
300 unique  
website visitors  
daily

700+ mentions of  
BOC in the media

700+ Facebook  
followers, 800  
people – average  
post reach



# Contact



## Contact:

-  BC «Podil Plaza»
-  30A Spaska street, Kyiv 04070, Ukraine
-  38 044 237 74 01
-  38 044 237 74 25
-  [info@boi.org.ua](mailto:info@boi.org.ua)
-  [boi.org.ua](http://boi.org.ua)



# Doing Business In Ukraine

## Ukraine Is Finally Turning the Corner

**Myron Rabij**

Partner, Dentons, New York / Kyiv offices

Forum on Eliminating Corruption and Promoting  
Economic Development in Ukraine

July 21, 2015, Prague, Czech Republic

# The U.S. Chamber of Commerce on July 16<sup>th</sup> posted the following statistics:

## Non-Fiscal Impediments to Doing Business

Corruption	97%
Judicial System	92%
Bureaucracy	77%
Over-Regulation	74%
Obsolete Currency Regulations	69%

**So...what does Business make of all this?**

# The View from Business – Not Quite the Same

## Problem No. 1 – The Economy and My Bottom Line in 2015/2016

**Business Wants Immediate Quick Fixes to Immediate Problems.**

**The Top 5 Fixes – the Focus is Prevention by Fixing the System.**

Improve the Country’s Sovereign Credit Rating – Avoid Default

Lessen the Tax and Fiscal Burden – Improve Profitability

Get Government and Racketeering Off My Back (Stop Over-Regulation and Stop Bribery)

Make Doing Business Easier, More Transparent and Predictable

Adopt International Standards and Open the Markets

**Enforcement and Punishment – Lower on the Agenda.**

# Are the Government and Its Accomplishments a Case in Point of this Emphasis ?

- **Look at the Government:**
- **These are Primarily People from Business – Representing Business Interests,**
- **These are Not Civil Society Reformers – That Comes from Outside**
- **These are Not Great Legal Reformers – Tough Judges or Crusading Prosecutors or Reform Scholars or Crusading Lawyers**

## Can We Draw Any Conclusions Looking at What In Fact Has Been Done?

## Government Reform

- EU Association Agreement – April / Sept 2014
- Presidential Elections – May 2014
- Parliamentary Elections – 26 October 2014;
- New Reformist Government with actual Reformers! December 2014;
- Downsizing of Government (28,000 officials cut; 10% funding cut) – Even if its Barely Noticeable – That’s a Lot!;
- Draft Constitutional Amendments (Decentralization) passed this past week.

# Government Reform

- Law on Municipal Elections (for October) passed this past week;
- Canada-Ukraine Free Trade Agreement – July 2015;
- EU-Ukraine Open Skies Agreement;
- US-Ukraine Open Skies Agreement - July 2015;
- Announcement of Mass Privatization (324 SOE for this year alone) – July 2015.

# IMF Reform Program Implementation

- IMF Long Term Credit Facility (EEF) – March 2015;
- Release of First IMF Tranche – March 2015;
- Increases in Public Utility Rates (IMF Requirement);
- Pension Reform (IMF Requirement);
- Bank Sector Liquidity Overhaul (Liquidation of Bad Banks);
- “Free Float” of UAH;
- Oschadbank 1.3 bln Debt Restructured (extension, no default, no haircut).

# Reforms – Anti-Corruption

- Parliamentary Committee on Preventing and Counter-acting Corruption;
- Lustration Law – September 2014;
- New Anti-Corruption Laws – October 2014 (Anti-Corruption Bureau);
- Business Ombudsman Office / Council formed – May 2015;
- Government Anti-Corruption Strategy for 2015-2017 – April 2015;
- General Oversight Function for the State Procuracy – Removed (Very Significant!);
- Head of the Anti-Corruption Bureau Appointed – 16 April 2015;
- National Agency for the Prevention of Corruption – 26 April 2015;
- Anti-Monopoly Committee – All Members Replaced;
- Public Audit of State Owned Enterprises – Tenders for CEOs;
- Corporate Compliance Policies now mandatory - April 2015;



## Reforms – Anti-Corruption

- Military Procurement – Open Tender Process;
- New Police Law and New Police Force (“To Serve and Protect”) – July 2015;
- Further Anti-Corruption Law Amendments (Independent Prosecution) – July 2015;
- JSC Reduced Quorum – 51% - (Ukrnafta) Law – Jan. 2015;
- JSC Law Amendments (Minority Rights, Procedural issues);
- No Snap Inspections by Tax Police / (now Fiscal) Administration (Significant!).

# Transparency

- Public Registries of Company and Property Ownership;
- Company Registry to List Beneficial Owners (25 April – now deferred to September);
- Consolidated Public Access to State Registries and Services (**igov.org.ua** );
- New Anti-Corruption Law Amendments (Public Registry of Ownership of Motor Vehicles and Land);
- Law on Increased Transparency in Mining Industry – Public Information on Status of Mining and Compliance with Licensing Terms – July 2015.

# De-Regulation / Ease of Business

- First De-Regulation Law Adopted (reduced construction permits, for example);
- Regulatory Bodies decreased by 50% from 56 to 28;
- Controlling Functions reduced from 1,200 to 680;
- VAT Reform - Electronic Registry; VAT Accounts;
- Tax Reform – 22 Taxes reduced to 11 – Feb. 2015;
- Permits and Licenses Decreased from 143 to 84;
- On-Line Company Registration – 2 Day Company Registration (LLCs);
- 90 Day Rep Office Registration reduced to 30;
- Eliminated Requirement for Company Seals.
- Natural Gas Market Law / Green Tariff Law / Draft Electricity Market Law

# On the Cusp of Further Key Milestones

- Ukraine’s July Restructuring of its Sovereign Debt – the **KEY** Credit Rating Milestone  
(note – Kyiv’s Municipal Bonds are due to mature in November 2015);
- The New Draft (De-Centralized) Constitution – to be finally voted by end of Summer?
- Naftogas’ New Agreement with Gazprom – July (Russia willing to continue discount);
- Announcement of National Local Mayoral and City Council Elections for October?
- Commencement of Mass Open Privatizations this Year?
- Tax Code Changes - Sept 2015

## On the Cusp of Further Key Milestones

- UkrNafta Shareholders Meeting – 22 July 2015 (De-Oligarchization 1– Kolomoisky);
- Movement on Court Cases on Firstash Ostchem Business (De-Oligarchization 2);
- Easing of Energy Sector Royalty Rates – Oct. 2015 and Jan 2016;
- Hiring of Investigators for the Anti-Corruption Bureau (operative in October 2015?);
- Un-Bundling of NaftoGaz – 2016;

**Clearly – all of these should be very Positive Game-Changers.**

# CONCLUSIONS

- It has been a Very Sobering Year of War and Crisis. The Post-Maidan Elation has ended.
- The Long, Tiresome, Tedious Day Job of Reform is Underway.
- But - To the long list of Reforms, I can add an Equally Long List of Things to Still Do and Things that Need to Change.
- Bribery Is Still Endemic – it is a Fact of Life
- And - The Window of Opportunity for Ukraine Remains Narrow.
- Reform Pressure Cannot Ease Up

# And What Can We Say About the Government?

**Is Its Emphasis Indeed on Reform as Quick Fixes for Business?**

In particular - the Business Framework – The Rules for Doing Business

**YES – I think so. And I can't say that is Bad. I Do Represent Business. The Framework Is Changing – and not just for Business.**

**And a Changed Framework will help Prevent Corruption.**

**BUT – Although Business can put Enforcement and Punishment Lower on Its Agenda, Government CANNOT.**

**Doing So - Dodges the Issue of the Fight Against Corruption.**

**Is this a Deliberate Dodge? THAT'S THE QUESTION.**

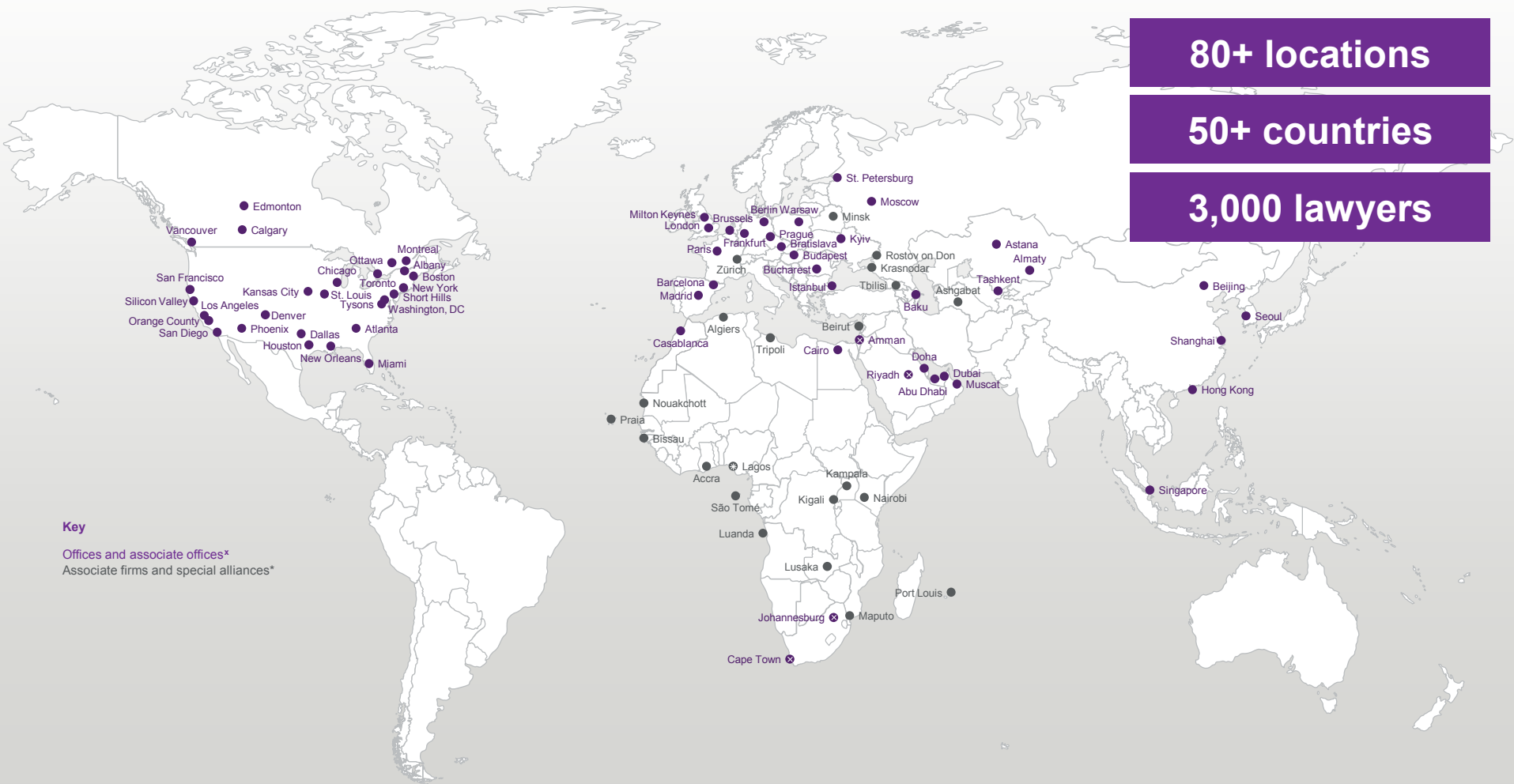


# Questions?



# Dentons: global presence

## Challenging the status quo



# Contact



## **Myron Rabij**

Partner, Head of Dentons Energy & Natural Resources  
Practice in Ukraine  
Dentons, Kyiv and New York offices  
[myron.rabij@dentons.com](mailto:myron.rabij@dentons.com)

Myron Rabij is a Global Partner with Dentons in the Kyiv and New York offices and the Head of Dentons Energy and Natural Resources Practice in Ukraine. Myron specialises in upstream oil and gas and alternative energy, regulatory issues in the energy sector, primarily gas and electricity, and corporate/M&A. Myron has been representing international and Ukrainian clients for 22 years in complex negotiations of joint ventures, cross-border acquisitions, energy sector regulatory and commercial issues, and on general matters of Ukrainian corporate law.

Professional memberships: Pennsylvania and New Jersey Bars (USA)

Education: JD, University of Pennsylvania, 1991; Colgate University (BA, honours, magna cum laude, Phi Beta Kappa, 1988). A native speaker of English, he speaks Ukrainian and Russian.

Recognition:

- *The Legal 500, IFLR1000, Ukraine 2015:* Leading individual in Energy and Infrastructure
- *Ukrainian Law Firms: A Handbook for Foreign Clients 2014:* Named among Top Five leading lawyers in Energy and Natural Resources
- *Clients' Choice 2014-2015 rating by Yurydychna Gazeta:* Listed among TOP-100 best lawyers in Ukraine. Recommended expert in Energy and Natural Resources
- *The Legal 500, Ukraine 2014:* “Dentons’ Myron Rabij is ‘smart, diplomatic and well-seasoned.’”

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# FAIR JUSTICE PROJECT

# The Role of Civil Society in Promoting Judicial Reform in Ukraine

David Vaughn

JusTRAC Symposium – Prague

July 21, 2015



## Civil Society Engagement

- Monitoring judicial reform
- Drafting research reports and policy papers
- Designing and implementing public outreach and awareness campaigns
- Conducting public opinion polls and court user surveys
- Promoting judicial performance evaluation





## CSO Monitoring



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## CSO Monitoring



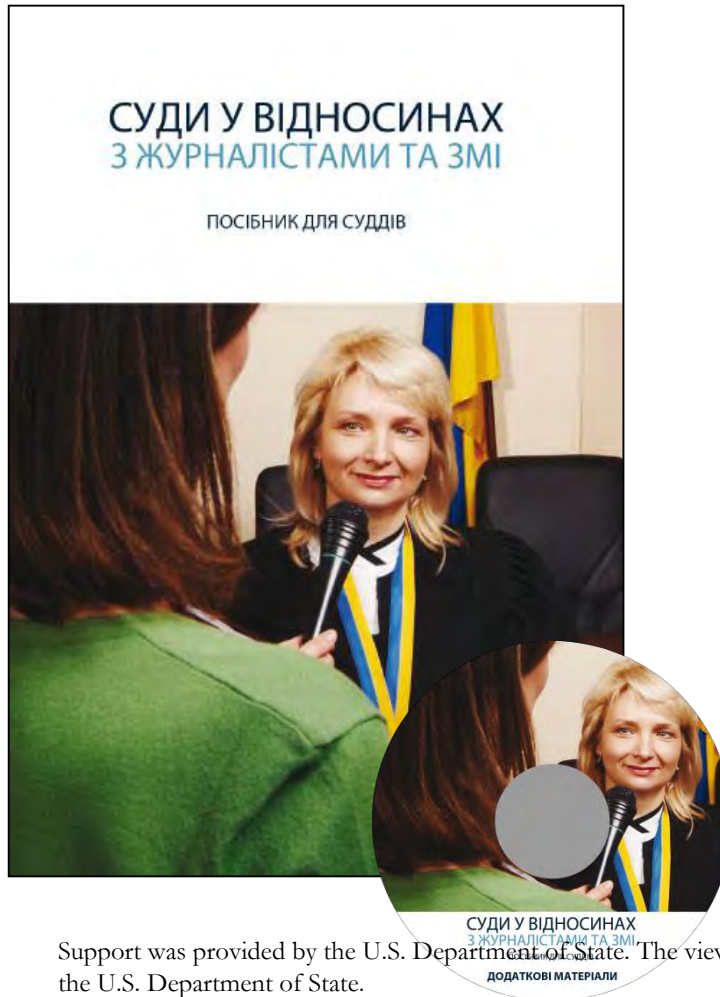
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## Public Outreach



- In class and online court communications curriculum
- Training programs for judges, PIOs and journalists
- Manuals for judges and journalists on courts and media

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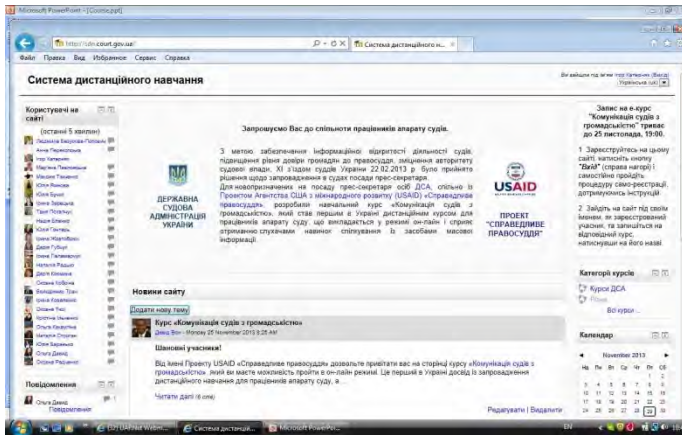




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## Public Outreach



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## Court User Surveys – CRC

- Pioneered by the Public Affairs Centre in Bangalore, India as a means to measure citizen satisfaction with municipal services
- Based on a school report card
- Measurement tool – collect and measure user feedback
- Accountability and transparency tool – always available to public
- Benchmarking tool – not a one-off effort





## Citizen Report Cards in Courts

- Focuses on feedback from actual court users versus data from national surveys
- Involves judges and court staff at all stages
- Provides a mechanism for improving court performance – internal change management tool
- Provides a mechanism for disseminating best practices and increasing public trust
- Tracks progress over time – benchmarking





## Sample CRC Scorecard

<b>Quality Measure</b>	<b>Maximum Possible Score</b>	<b>Highest Score</b>	<b>Kharkiv Administrative Court</b>
Physical Access to Court	1.00	0.91	0.68
Level of Comfort in the Courthouse	1.00	0.99	0.86
Access to Court Information	1.00	0.95	0.81
Timeliness in Considering Cases	1.00	0.96	0.83
Quality of Performance by Court Staff	1.00	0.90	0.82
Quality of Performance by Judges	1.00	0.97	0.86
Quality of Court Decisions	1.00	0.97	0.87
<b>Average</b>	<b>1.00</b>	<b>0.91</b>	<b>0.82</b>



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## CRC Program

- 8 rounds between 2009 and 2015
- 322 courts in 20 regions in partnership with 17 civil society organizations
- Over 800 CSO volunteers trained to conduct surveys
- More than 35,000 questionnaires analysed

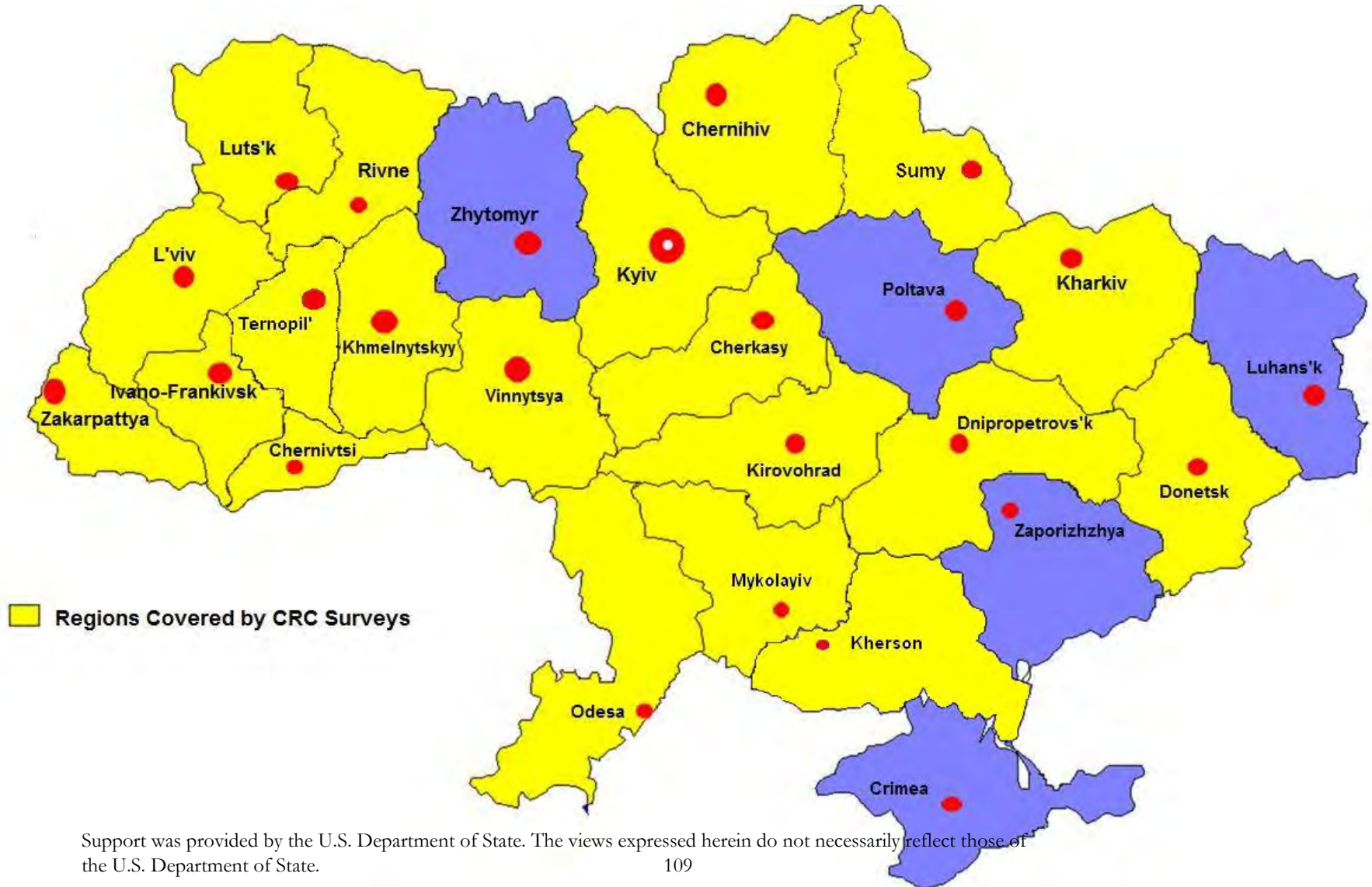


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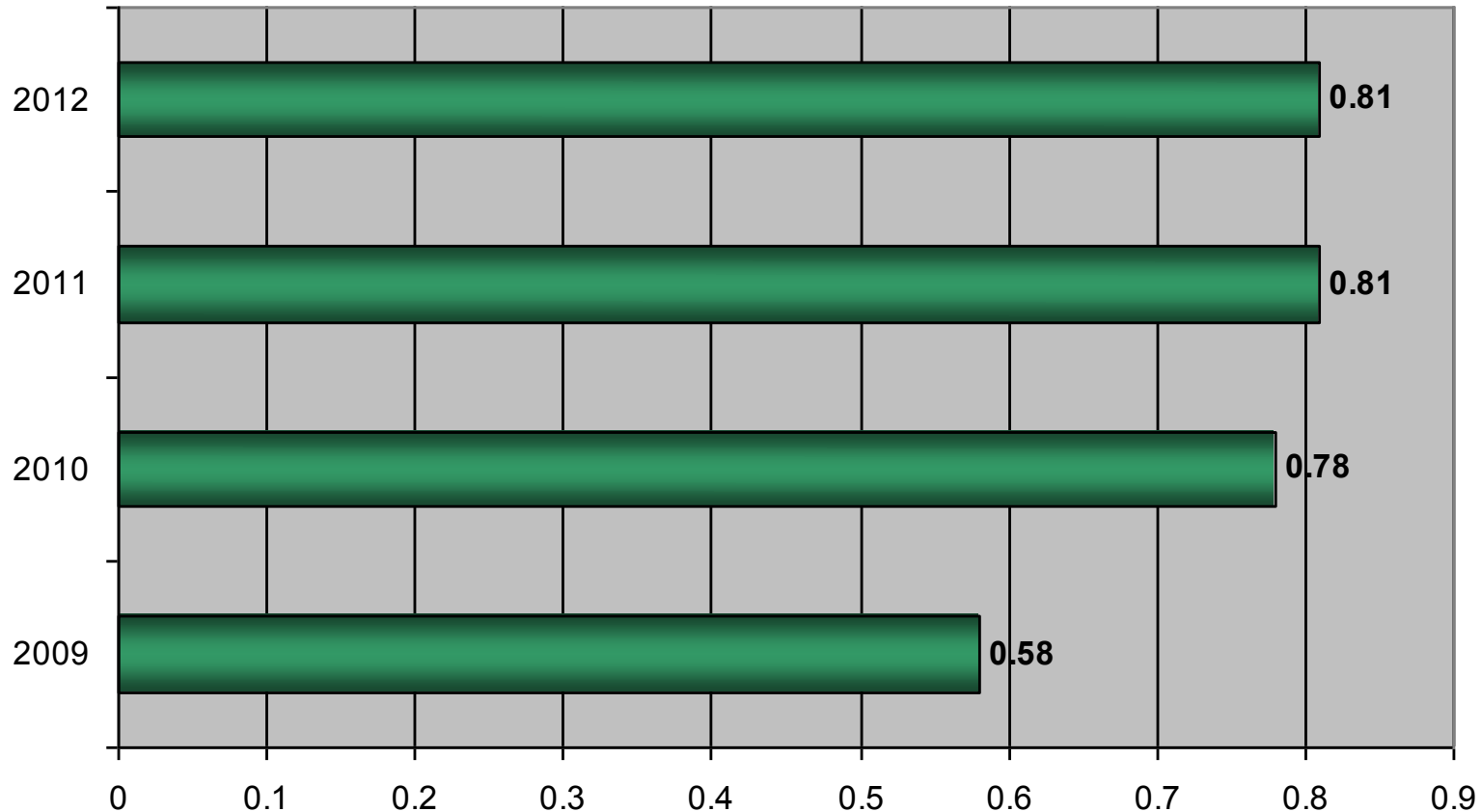
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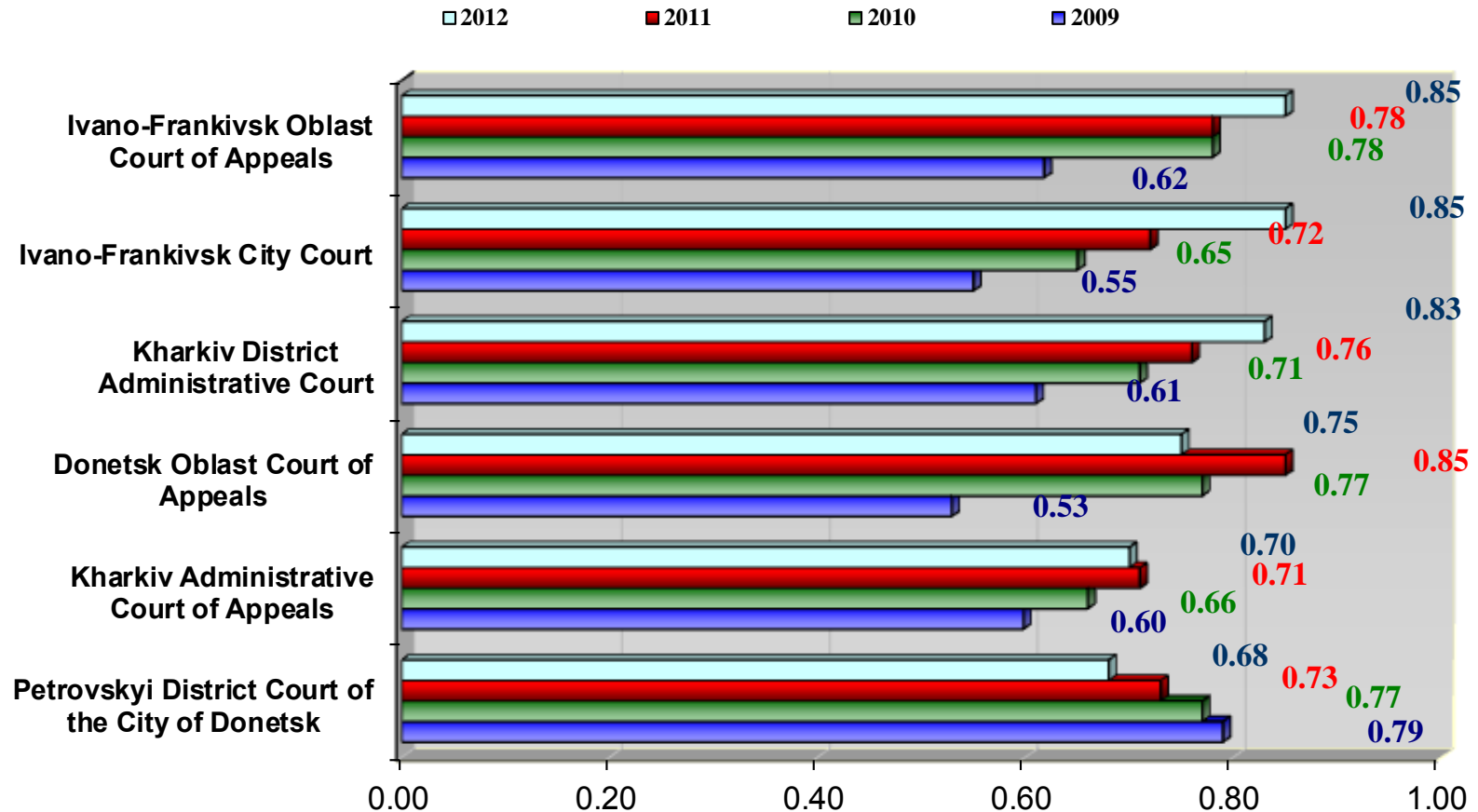
### Average Level of Satisfaction with Pilot Court Performance by Court Users



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## Quality of Court Operations in General



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## Court Performance Evaluation

- National Framework for Court Performance Evaluation
- Judicial Administration Certificate Program



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## Lessons Learned

- Engage national judicial leadership, chief judges and court administrators and demonstrate benefits of engaging CSOs
- Provide training and workshops for civil society partners
- Broadly disseminate CSO analytical reports and policy papers
- Ensure proper follow up on CSO recommendations – benchmark progress



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# FAIR JUSTICE PROJECT

# Thank You!

[dvaughn@fair.org.ua](mailto:dvaughn@fair.org.ua)

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