



# REPORT

2018 – 2019

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# ABOUT US

*The Institute of Legislative Ideas is an independent public think tank that improves legislation by facilitating dialogue between society and government.*



## MISSION

We work to prevent the adoption of legislation with corrupt, discriminatory and ineffective provisions in order to build a country of equal opportunities, develop democracy and the rule of law.

## VALUES

- ▶ Independence from any government, political and business structures
- ▶ Professionalism of analysts and quality of our product
- ▶ Openness to dialogue, cooperation and dissemination of our experience
- ▶ Responsibility for our product to partners and society
- ▶ Efficiency of work with optimal resources and maximum result



## TEAM



**Tetiana Khutor**

Chairman of the IZI board



**Martyna Bohuslavets**

Executive Director of IZI



**Volodymyr Antkiv**

Analyst



**Olena Basmat**

Analyst



**Artur Karvatskyi**

Analyst



**Anastasiia Kryvonos**

Analyst



**Taras Riabchenko**

Analyst



**Andrii Koval**

Analyst

## HISTORY

Analytical center “Institute of Legislative Ideas” (hereinafter referred to as IZI or Organization) was established in 2017 on the basis of the Council of Public Expertise, which functioned under the Committee on Prevention and Combating of Corruption of the 8th convocation of the Verkhovna Rada of Ukraine (hereinafter referred to as Verkhovna Rada).

Since 2015, the Council of Public Expertise (hereinafter referred to as the Council) has conducted public anti-corruption expertise of all draft laws (without exception) registered in the parliament by the subjects of legislative initiative. Analysts of the Council were selected in an open competition, which consisted of three stages: testing for knowledge of general and anti-corruption legislation, psychological tests and interviews. The members of the Council were chosen utilizing the same methods as the selection procedure for the detectives of the National Anti-Corruption Bureau of Ukraine. Thus, out of 100 candidates, 10 best lawyers and highly specialized analysts were selected.



# ANTI-CORRUPTION EXPERTISE OF THE DRAFT LAWS (1 READING)

*Anti-corruption expertise plays a key role in preventing the legalization of corruption schemes in legislation.*

*According to Article 93 of the Law of Ukraine "On the Rules of Procedure of the Verkhovna Rada of Ukraine", every draft law registered in the Parliament is subject to examination for the presence of corruptogenic factors before the first reading. This is more than 7,000 draft laws per one convocation.*

## WHY WE DO THIS?

Let us remember the beginning of the work of the Parliament of the 8th convocation.

During the first six months of work (December 2014 - July 2015), the Committee on the Prevention and Combating of Corruption (hereinafter referred to as the Committee) on average went over 71% of all draft laws that needed analyzing (1638 out of 2295). At the same time, corruptogenic factors were identified in 5.79% of all analyzed drafts.

Simultaneously, since September 2015, the situation has improved significantly - the percentage of the draft laws covered has reached 100%. Thus, out of 1,097 instructions of the Speaker of the Verkhovna Rada regarding the anti-corruption examination of draft laws, 1,104 were prepared (including those, which were not prepared during the previous period). At the same time, the number of draft laws that, after examination, turned out to contain corruptogenic factors reached 110, which is **12.7%** of all examined draft laws.





It is during this period (September 2015) that the Council of Public Expertise begins its work, its main task being conducting anti-corruption expertise of all draft laws submitted to the Committee and involving stakeholders (business associations, sectoral NGOs, independent experts) in the analysis of highly specialized draft laws.

During its 4 years of work the Council of Public Expertise analyzed 4027 draft laws, in 474 of which corruption risks were found, and to 1211 of which comments were provided. The conclusions can be found in the open database maintained by the members of the Council.

The Council of Public Expertise has established effective cooperation with the Secretariat of the Committee, which helped the specialists of the Secretariat receive the conclusions of the Verkhovna Rada in advance so they

had the opportunity to take into account the relevant comments during their own analysis.

The implementation of the project in 2018 and 2019 provided an opportunity to continue the fruitful cooperation of the Institute of Legislative Ideas with the Committee (members and the Secretariat) and draw their attention to corruptogenic factors in each draft law in which IZI analysts identifies such factors regardless of the subjects of draft laws.

## HOW DO WE ANALYZE?

It is important to understand that the independence and validity of our conclusions is ensured by the fact that experts of the Institute of Legislative Ideas analyze draft laws in accordance with official guidelines — [Methodology of anti-corruption expertise approved by the Ministry of Justice of Ukraine №1395 / 5 of April 24, 2017](#)



# STAGES OF ANTI-CORRUPTION EXPERTISE OF DRAFT LAWS



01



As soon as the draft laws are officially registered in the Verkhovna Rada of Ukraine (hereinafter referred to as Verkhovna Rada), they are sent to the Committee to verify their compliance with the requirements of anti-corruption legislation (anti-corruption expertise of draft laws).

02



Afterwards, our team's analysts, according to their field of competence, have 14 days to gather expert positions on relevant draft laws among specialised expert NGOs, professional associations, business associations, independent experts and form their own opinion on the presence or absence of corruptogenic factors in each draft law

03



IZI then sends its findings to the Secretariat of the Committee for it to take into account the risks identified by us in preparing its draft decisions

04



Before each meeting of the Committee, the Secretariat prepares the agenda and includes issues related to anti-corruption expertise of draft laws that have been analyzed, taking into account the conclusions provided by IZI

05



Before the meeting of the Committee, we also send our conclusions to the MPs of Ukraine who are members of the Committee. If necessary, our analysts hold additional consultations and meetings with MPs on "toxic" draft laws

06



During the meeting of the Committee, MPs make decisions on compliance or non-compliance with the requirements of anti-corruption legislation of each draft law registered in the Verkhovna Rada





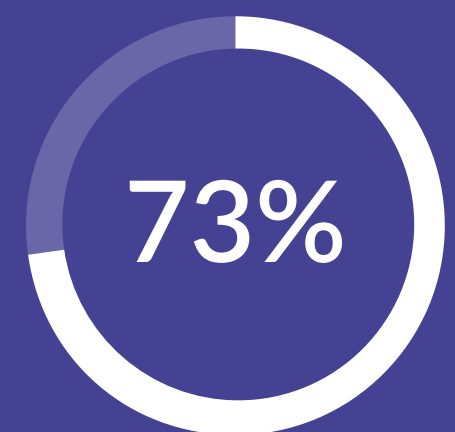
# 5230

During the VIII convocation, analysts of the Organization analyzed 5,230 draft laws. Of which:

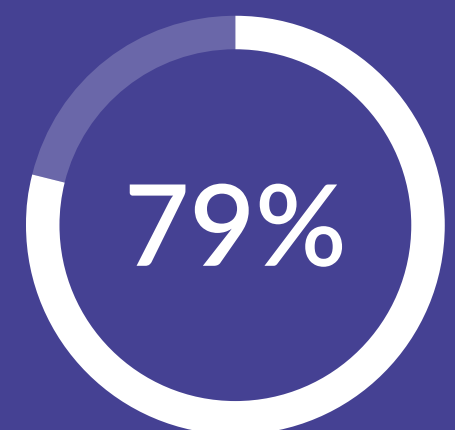


Also, we calculated not only the number of analyzed draft laws, but also the percentage of conclusions fully or partially taken into account by the Committee

 In 2018 it was



 In 2019 (VIII convocation) it was



## PROJECT RESULTS (VIII CONVOCATION)





## Draft law № 6688 “On Amendments to Certain Laws of Ukraine on Counteracting Threats to National Security in the Information Sphere”

*The authors of the draft law were members of the main Committee and members of the coalition party. Therefore, the chances of the draft law being passed were high.*

**Summary:** in the draft law it was proposed to significantly expand the powers of the Security Service of Ukraine which posed a threat to freedom of speech:

a) the draft law expanded the concept of technological terrorism by adding the following to the definition “...and / or aimed at violating public safety, intimidating the population, provoking military conflict, international complications, influencing decisions or taking action or failure to take action by public authorities or local governments” by the officials of these bodies, association of citizens, legal entities or at drawing public attention to certain political, religious or other views of the perpetrator (terrorist)”. Failure to define these terms could create excessive discretion for law enforcement agencies through arbitrary interpretation of these provisions.

6) in exceptional cases, the draft law allowed

blocking access to websites without a court order for up to 48 hours. This gave unjustifiably wide discretion to prosecutors and investigators, who could, at their discretion, interpret the grounds for such exceptions using the appropriate information resource, and apply the measure for at least 48 hours.

**Result:** The Secretariat of the Anti-Corruption Committee did not comment on the draft law before the Committee meeting. Therefore, our team prepared a conclusion, which included the opinion of the OSCE Adviser on Freedom of the Press in Vienna, Andriy Richter, who gave a negative assessment of this legislative initiative. The conclusion was translated and forwarded to the Secretariat of the Committee. On January 16, 2019, the deputies of the Committee made an official decision on the non-conformity of the draft law with the requirements of anti-corruption legislation.

The authors withdrew the draft law.



## Draft law № 9460 "On Amendments to Certain Laws of Ukraine Concerning the Peculiarities of the Public Procurement Procedure during the Legal Status of Martial Law."

*President Poroshenko declared this draft law a high priority.*

**Summary:** The draft law proposed to allow the parties to increase or decrease the volume of procurement, its value, duration of the contract and fulfillment of obligations under the contract. There were no restrictions on increasing the volume of procurement and the value of the contract. Therefore, even if the contract value was 100 million, it could be increased to 200 million or more using additional agreements. In fact, such cases have already occurred - 4 officials were suspected of embezzling about 5 million euros during the purchase of fuel for the army. The contract value was increased by 16%.

The draft law allowed the procurement procedures in the areas connected to the defense sphere to be concluded within 1 day and without a tender. Moreover, you had only one day to appeal the procurement decision.

**Result:** At first, the draft law was to be included in the agenda of the Committee meeting as one that does not contain

corruption risks. However, IZI analysts identified corruptogenic factors and reported them to the Secretariat and members of the Committee. As a result, the draft law was found to be inconsistent with anti-corruption legislation.

The president withdrew the draft law.

# EXAMPLES





# 1040

During the IX convocation analysts of the Organization analyzed 1,040 draft laws. Of which:

95<sup>9,13%</sup>

were corruptogenic

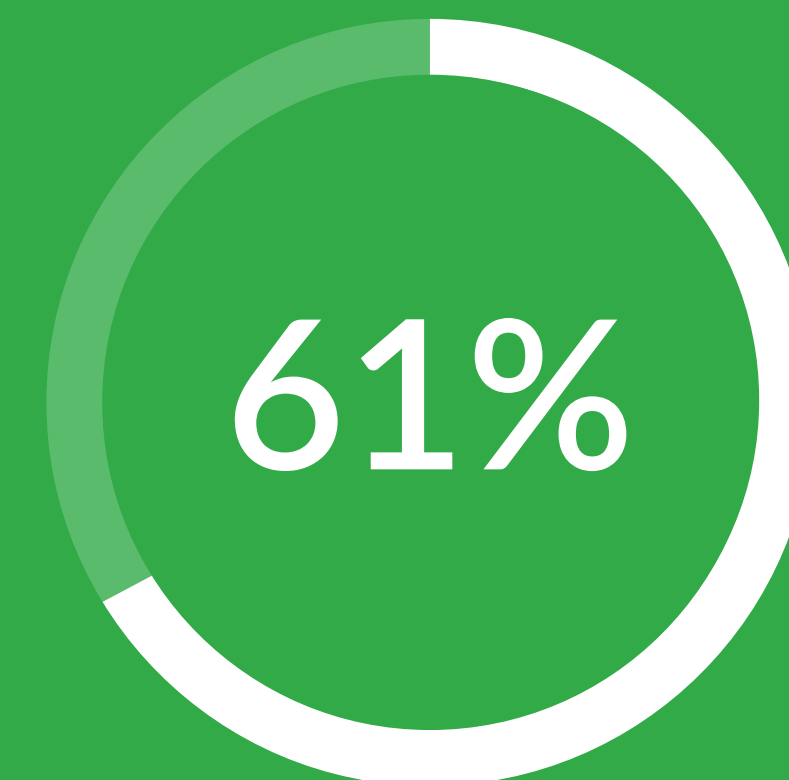
333<sup>32,02%</sup>

contained reservations

612<sup>58,85%</sup>

were positive

During the IX convocation the influence indicator is



**PROJECT RESULTS  
(BEGINNING OF  
IX CONVOCATION)**



## Draft law 1038 “On the Amendment of the Law of Ukraine "On the status of the member of parliament of Ukraine" (concerning bringing of the Law of Ukraine "On the status of the member of parliament of Ukraine" in accordance with the Constitution of Ukraine)”

*The draft law was one of the first submitted by representatives of the coalition majority.*

**Summary:** The draft law provides for the possibility of unseating a MP by the party leadership, in this case of:

- ▶ a political party not being a member of the parliamentary faction (either from the party lists or in the majority constituencies),
- ▶ termination of his/her membership in such a faction (both those who left on their own, and those who were expelled by the faction).

These changes do not comply with Article 81 of the Constitution of Ukraine and give broad discretion to the party leadership, which is a factor of corruption.

# EXAMPLES

**Result:** Previously, the draft law was to be included in the agenda of the Committee meeting as one that does not contain corruption risks. However, IZI analysts identified corruptogenic factors and reported them to the Secretariat and members of the Committee. As a result, the draft law was found to be inconsistent with anti-corruption legislation.

Consideration of the draft law has been suspended.



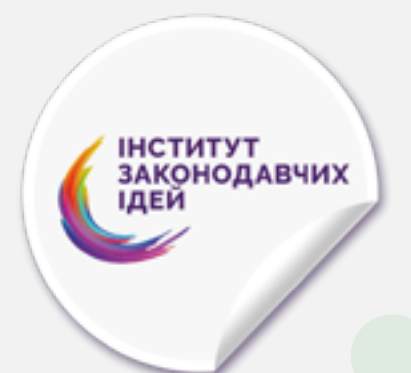
## Draft law № 2285 “On state regulation of activities in the field of organization of gambling”

**Summary:** The first draft law on “gambling business” was registered in October 2019. It provided for the opening of the gambling market, the creation of a new body in this area, the procedure for issuing licenses, control and supervision in the field of gambling. During a short period of time, deputies proposed 7 alternative draft laws. The analyst of the Organization prepared 8 opinions on the relevant draft laws and sent them to the Secretariat of the Committee. Key remarks concerned the procedure for electing the Chairman and members of the regulatory body, the administrative procedures for conducting inspections, the rights and responsibilities of officials. Important comments on specific types of gambling, hotel requirements, and licensing requirements were also highlighted.

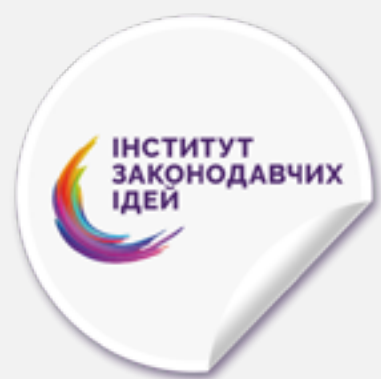
**Result:** All comments submitted by IZI were taken into account by the Committee in its

draft decision, which was supported by the MPs-members of the Committee.

Afterwards, following the draft law №2285 being sent for revision, a new version of this draft law (№2285-d) and three alternatives to it were registered. Our analyst worked with the Secretariat of the Committee to form the decision of the Committee. The key comments of the Organization were taken into account when voting for the decision of the Committee on each of the draft laws.







# ANTI-CORRUPTION EXPERTISE OF THE DRAFT LAWS (2 READING)

*In 2019, a pilot project was launched to analyze draft laws before the 2 reading*

## WHY WE DID IT?

Four years of experience in conducting anti-corruption expertise before the 1 reading showed the limited effectiveness of the analysis of draft laws only before the 1 reading. After all, there are frequent cases when the text of the draft law before the 2 reading is radically different from the text before the 1 reading. The reason is the imperfection of the Rules of Procedure of the Verkhovna Rada, which does not provide for mandatory analysis and consideration of draft laws for the presence of corruptogenic factors in the text of proposals and amendments made before the second reading. Therefore, we have situations when a good, useful draft laws, after some amendments, turns corruptogenic and become laws.

## HOW WE DID IT?

The amendments and proposals were considered by the Organization's experts for the presence of corruptogenic factors using the Methodology of anti-corruption expertise.

Analysts of the Organization involved external experts in the analysis of individual draft laws. For a more effective analysis, analysts were included in working groups, as well as participated in the development of amendments and proposals for draft laws.

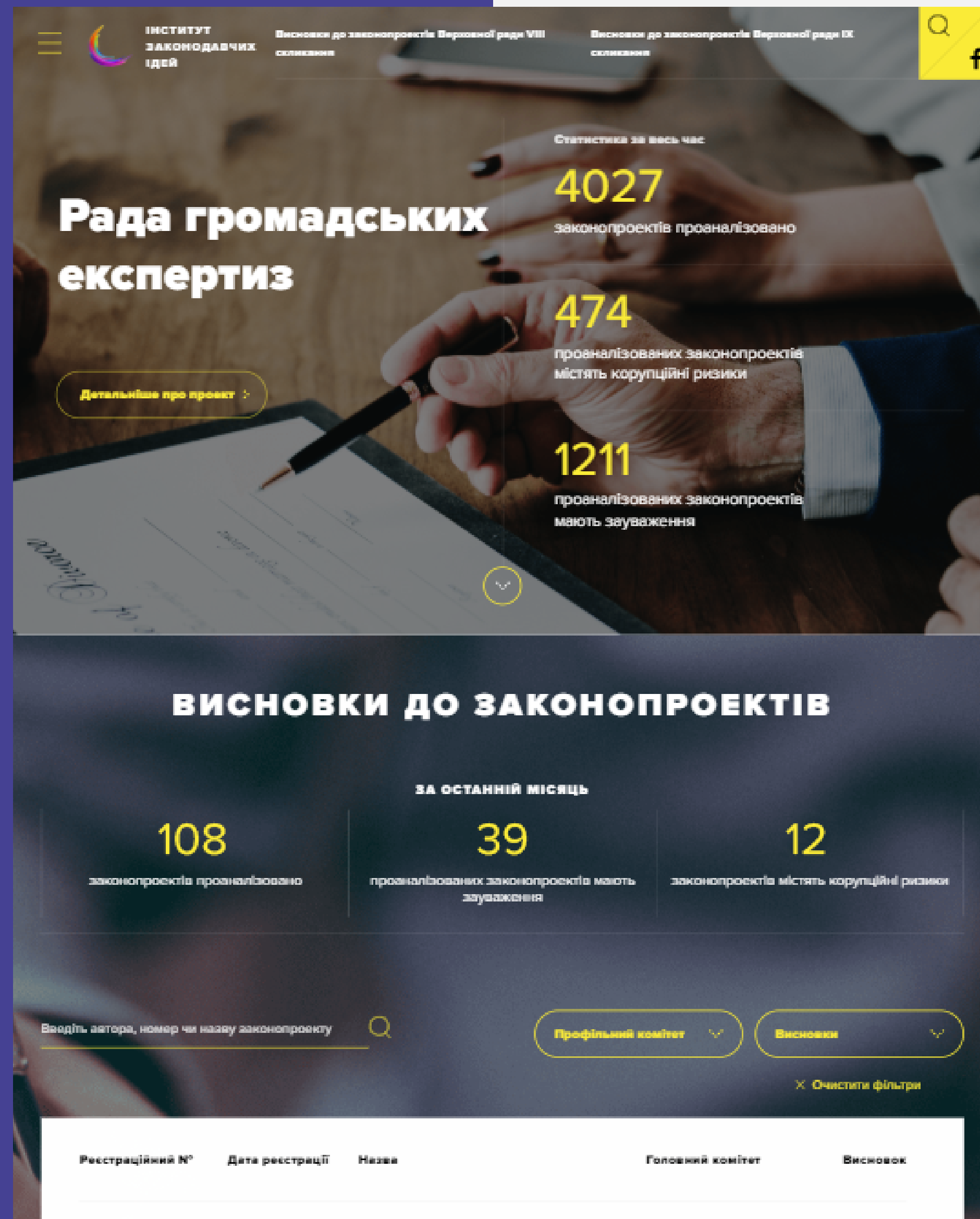
Initially, we analyzed the amendments and proposals taken into account by the main committee, as they had the greatest chance of being adopted. However, we were faced with the fact that the final document with amendments and proposals taken into account by the main committee was often not available on the Parliament's website. As a result, we had to change our strategy and start analyzing the document with all the amendments and suggestions.

## RESULTS OF THE PROJECT

Our team conducted an anti-corruption analysis of **20 draft laws** before the second reading.

The conclusions of the public anti-corruption expertise before the second reading were sent to the MPs of Ukraine before the vote either in the relevant committee (if the decision on supported amendments and proposals has not been made yet) or in the parliament (if the committee has already decided to support the risky provisions).

Information on the analyzed draft laws is available on social network platforms and on the Organization's website.



# ONLINE PLATFORM WITH OUR CONCLUSIONS ON EACH DRAFT LAW

An important and final stage of the anti-corruption expertise is the publication of all conclusions on the draft laws on the official website of the Organization, so that anyone can get a look at the identified corruption risks of each draft law. IZI team has created [a unified open register of conclusions on all draft laws registered in the Verkhovna Rada](#), which is continuously updated.

Different sections of the web-site contain information on the conclusions on the draft laws proposed [during the VIII convocation](#), information on the conclusions on the draft laws [proposed during the IX convocation](#) and [on the methodology](#), used to analyze those draft laws for compliance with anti-corruption legislation.

Conclusions on the draft laws can be filtered by relevant committees and type of conclusion. Those can be positive (the draft law fully meets the requirements of anti-corruption expertise), negative (the draft law contains significant corruption risks and cannot be

improved) or contain a remark (the draft law shows corruptogenic signs, but those can be eliminated during the preparation of the draft law for the second reading).





# ANALYTICAL RESEARCH

*While carrying out the expertise, analyzing various regulations, in 2019 IZI conducted a number of analytical studies to improve the methodological basis of anti-corruption expertise, taking into account best international practices and addressing problems with the view of the effective implementation of anti-corruption expertise in Ukraine.*

Therefore, during the time the Organization was active, the following analytical studies were conducted:

- ▶ Sectoral systematization of corruption risks in the draft laws of 2018-2019
- ▶ Analytical research “Anti-corruption expertise of draft laws: effectiveness of practical implementation”
- ▶ Analytical research “Discretionary powers as a corruptogenic factor: domestic and international experience”
- ▶ Analytical research “Analysis of corruptogenic factors. International experience of anti-corruption expertise: ways to improve the legislation of Ukraine”
- ▶ Analytical research “Public procurement: can it be improved”
- ▶ Analytical research “Does transparency correlate with efficiency: analyzing the work of parliamentary committees”





# REGIONAL DEVELOPMENT AND COOPERATION

*Regional development remains extremely important for us, in particular the part which provides for dissemination of the anti-corruption experience of organizations working at the national level to regional institutions.*

*Thanks to the work of the team, nowadays anti-corruption expertise has the opportunity to exist at the local level.*

Thus, in order to create a real mechanism for combating grassroots corruption, at the end of 2019 we signed a Memorandum of Cooperation with Kyiv City Council (hereinafter referred to as KCC).

According to that memorandum, our team will cooperate with the KCC to identify corruption risks in the development and adoption of regulations of the KCC and its executive body (Kyiv City State Administration), prevent corruption in regulations, conduct independent public anti-corruption expertise of drafts of such regulations. We plan to work on removing the provisions that contain corruption risks not only from the draft regulations, but also from the current regulations of the Kyiv City Council (KCSA).

Moreover, the Institute of Legislative Ideas started working with the heads of Lviv Regulatory Center and representatives of the Integrity and Prevention of Corruption Sector of Lviv City Council to establish cooperation in the development of anti-corruption and regulatory expertise of Lviv City Council and its executive bodies. Our Organization focuses on anti-corruption expertise, identifying the riskiest sectors and helps develop a methodology for identifying risks in the decision-making process of local authorities.





# DRAFT LAWS PREPARED IN CONSULTATION WITH OUR TEAM

*Our Organization is not only engaged in analytical work, but also directly involved in the development of legislation*



Our analysts organized a working group to develop a draft law aimed at optimizing the electoral process abroad and removing legislative and organizational barriers to Ukrainians' voting in a polling station abroad. The working group was joined by active representatives of the Ukrainian diaspora and immigrants and representatives of the Ministry of Foreign Affairs of Ukraine. A number of consultations were held with members of the Central Electoral Commission of Ukraine and MPs of Ukraine. As a result, draft law **№ 10053** “Draft Law on Amendments to Certain Laws of Ukraine on Ensuring the Exercise of the Right to Vote in Polling Stations Abroad” was developed.





A working group was organized to develop a draft law aimed at closing the gap in the legislative regulation of criminal liability for illicit enrichment (new version of the article on illicit enrichment). The members of the working group held a number of consultations with leading experts in criminal law and detectives of the National Anti-Corruption Bureau of Ukraine and prepared draft law **№ 10110-5** “Draft Law on Amendments to the Criminal and Criminal Procedure Codes of Ukraine on Liability for Illegal Enrichment” which was presented to the MPs.



The Institute of Legislative Ideas became an active member of the working group set up by the relevant committee to prepare a draft law on illicit enrichment on the basis of 13 submitted draft laws. Many of the provisions proposed by our analyst were included in the final version of the registered draft law **№ 10110-d** “Draft Law on Amendments to the Criminal and Criminal Procedure Codes of Ukraine on Liability for Illegal Enrichment”, which was adopted by the working group.



In recent years the analysts of the Organization have studied the problem of access of law enforcement agencies, in particular the National Anti-Corruption Bureau of Ukraine, to information covered by bank secrecy. Preliminary consultations on the topic were held with practitioners and detectives and, subsequently, the proposals were submitted by our analysts to the MPs of the relevant Committee. These proposals were supported before the second reading of the draft law **№ 1031** “Draft Law on Amendments to Certain Legislative Acts of Ukraine on Confiscation of Illegal Assets of State Authorized Persons or local government, and penalties for acquiring such assets”, which later became law.

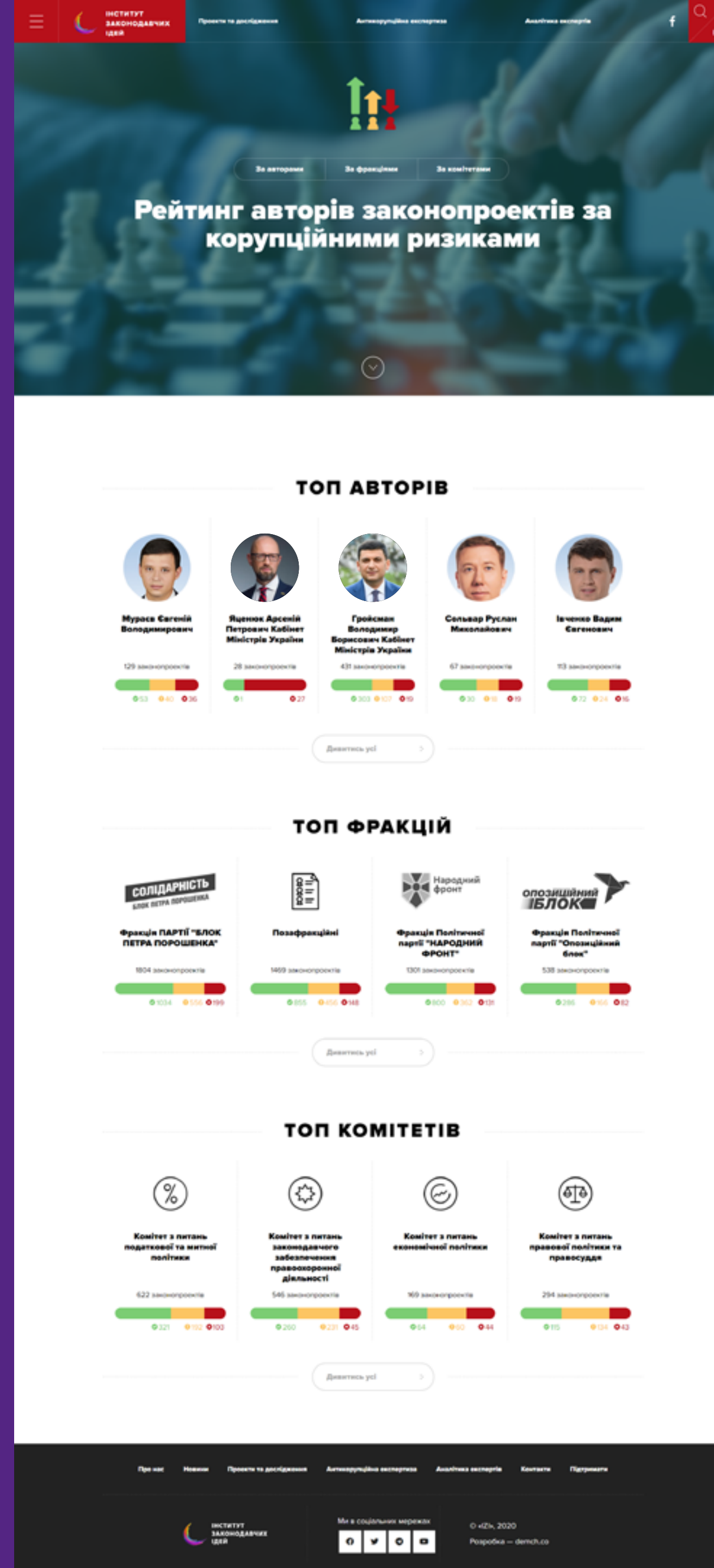






# RANKING OF DRAFT LAWS' AUTHORS BASED ON CORRUPTION RISKS

Each of the draft laws registered in the Verkhovna Rada receives a conclusion on compliance with the requirements of anti-corruption legislation, which is further confirmed by the decision of the Anti-Corruption Committee, if supported by the majority of its members.



Based on all the draft laws analyzed by us, registered by one or more subjects of legislative initiative in the Parliament of the 8 convocation (the President, the Cabinet of Ministers of Ukraine or MPs of Ukraine), [a ranking of draft laws' authors based on corruption risks was created.](#)

According to this ranking, you can see which committee approved the largest number of corruptogenic draft laws; the authors of the draft laws that registered the largest number of corruptogenic initiatives and the factions of the political parties whose members submitted the largest number of corruptogenic draft laws.

In this rating, you can also track draft laws which contain reservations, as well as draft laws that did not contain corruption risks.

The rating was updated on a regular basis immediately after the approval of the conclusions.

A similar rating is being developed for draft laws registered by the subjects of the legislative initiative in the parliament of the 9 convocation.

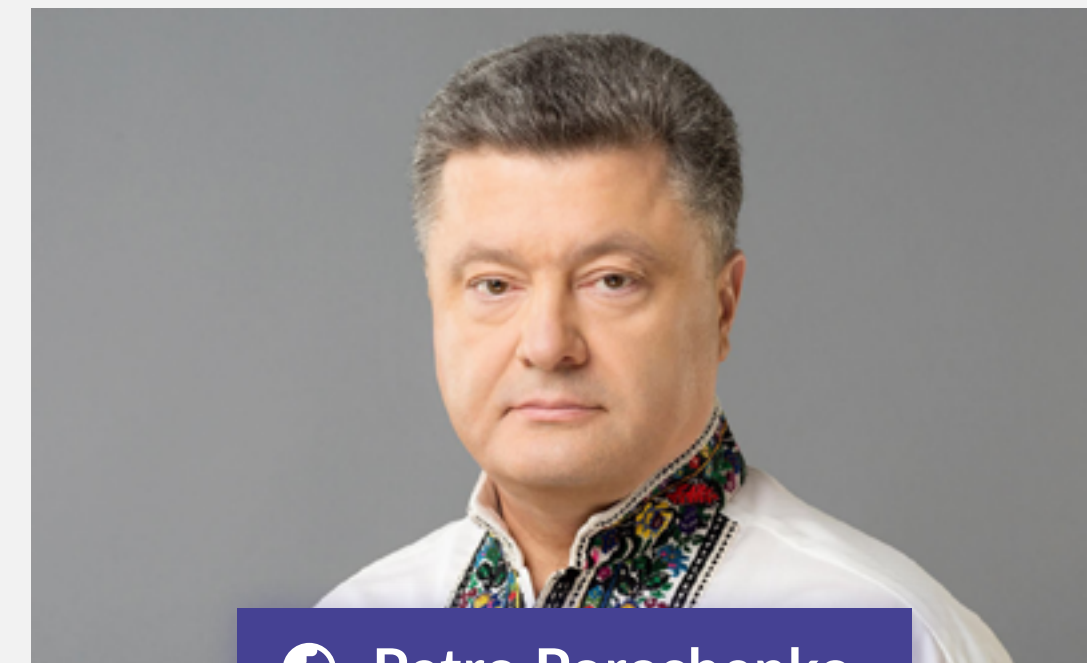
# ANALYSIS OF THE PROGRAMS OF UKRAINIAN PRESIDENTIAL CANDIDATES — “OLD AND NEW PROMISES”



## ANALYSIS OF COMPLIANCE WITH OLD PROMISES FROM 2014

In order to raise public awareness of the election programs of candidates for President of Ukraine, the project team examined the old election promises of the top 4 candidates in the previous presidential race, based on their election programs in 2014 as well as all their legislative initiatives (draft laws, proposals and amendments before the 2 reading), which were submitted by them over the last 5 years.

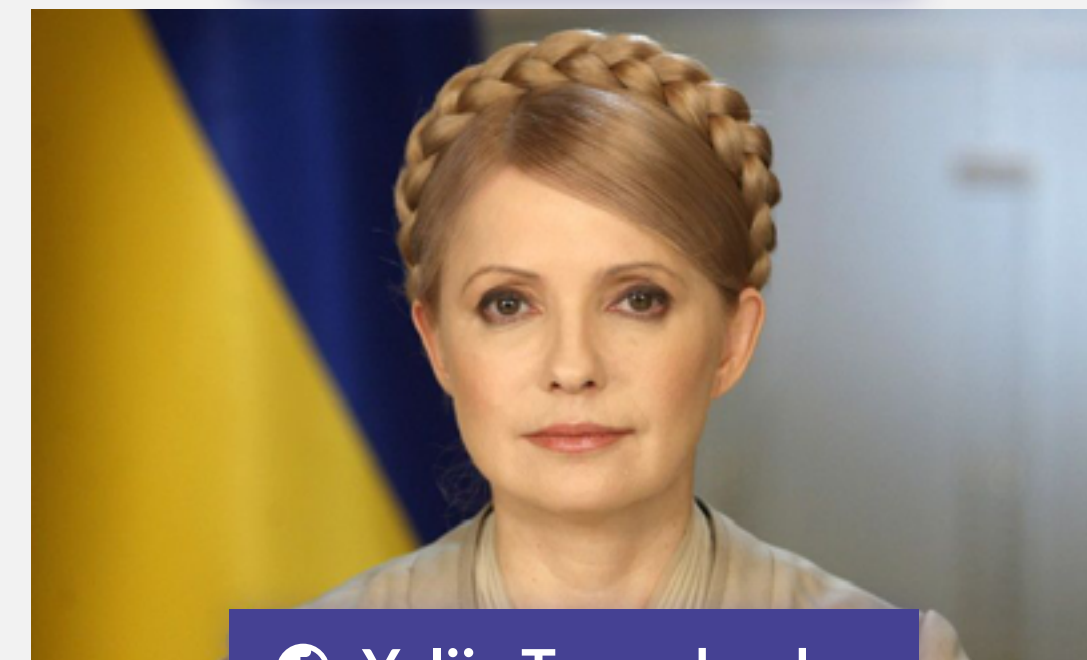
The purpose of the analysis was to show whether the new promises of the candidates should be trusted in the context of keeping their old promises. As a result, an analytical study was created for each of the following MPs:



 Petro Poroshenko



 Yurii Boiko



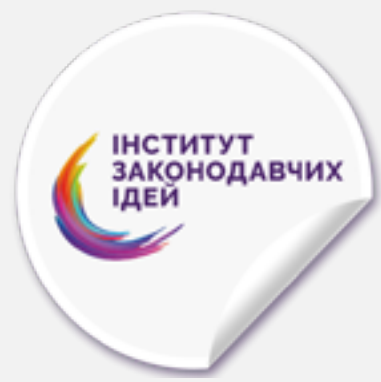
 Yuliia Tymoshenko



 Oleh Liashko







## ANALYSIS OF NEW PROMISES IN 2019

In addition, we analyzed the election programs of the 4 candidates most likely to win the 2019 presidential election. As a result, a number of infographics were created and published, which indicated the presence or absence of clear positions in the election programs of candidates in the following areas:

- International politics in the election programs of candidates
- Anti-corruption program in the election programs of candidates
- State system in the election programs of candidates
- National security and defense in the election programs of candidates
- Social policy in the election programs of candidates
- Culture and education in the election programs of candidates
- Healthcare in the election programs of candidates
- Economics in the election programs of candidates
- Judiciary system in the election programs of candidates
- Land reform in the election programs of candidates



Moreover, during the election campaign of candidates for the Parliament of the IX convocation, IZI team created and published a video “Be sure of your choice! Check the deputy” with contained detailed instructions on how to check the “legislative honesty” of the candidates for MPs of Ukraine who for the last 5 years already held the corresponding positions, using open data bases, available on the website of our Organization.





## COMMUNICATION WITH THE PARTICIPANTS OF THE 2019 ELECTION CAMPAIGN

Thanks to the communication work carried out during the change of political elites in 2019, the Organization used all effective means of communication during the election of the new President and Parliament, advocating the importance and strengthening of the institution of anti-corruption expertise, mainly:

- ✚ preservation of the institute of anti-corruption expertise of draft laws before the 1 reading
- ✚ introduction of mandatory anti-corruption expertise of draft laws before the 2 reading
- ✚ strengthening the anti-corruption expertise of statutory instruments and regulatory acts





We became members of the Coalition of Public Organizations, which advocated for the Anti-Corruption Agenda of candidates running for President of Ukraine. Afterwards, the members of the Organization had 5 meetings with the following candidates: A. Hrytsenko, Y. Tymoshenko, A. Sadovy, O. Shevchenko, V. Nalyvaichenko. Our ideas and proposals for strengthening the institution of anti-corruption expertise were supported by each presidential candidate.

In addition, some members of the candidate teams confirmed the use of our conclusions during the 8 convocation of the Verkhovna Rada (A. Sadovy's team, Y. Tymoshenko's team) and stressed the importance of examining the draft laws before the second reading.

Moreover, the Institute of Legislative Ideas became one of 17 leading Ukrainian NGOs (including Transparency International Ukraine, Anti-Corruption Action Centre, Anti-Corruption Research and Education Centre (ACREC), Bihus.Info, etc.), which formed a coalition to promote their demands (entitled

“Justice Agenda”) to the political parties that ran for the Verkhovna Rada of Ukraine in the 2019 elections.

All political forces (“Voice”, “Servant of the People”, “Association “Samopomich”, “Batkivshchyna”, “Civic Position”, “People's Power”) supported the idea of conducting anti-corruption expertise before the first reading, and agreed to cooperate to introduce the practice of anti-corruption expertise before the second reading. Moreover, the current leadership of the Anti-Corruption Committee has requested that we continue our work and further cooperate with the Committee.

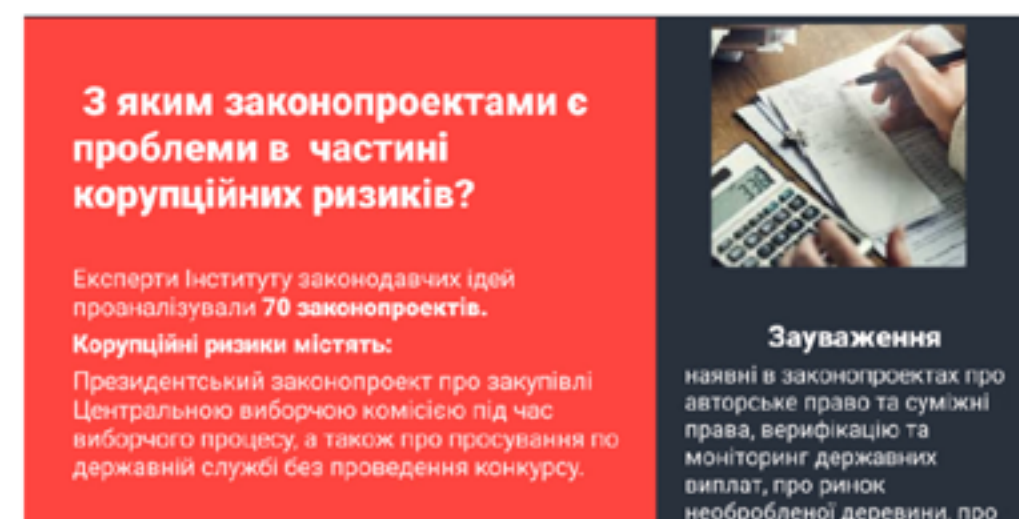
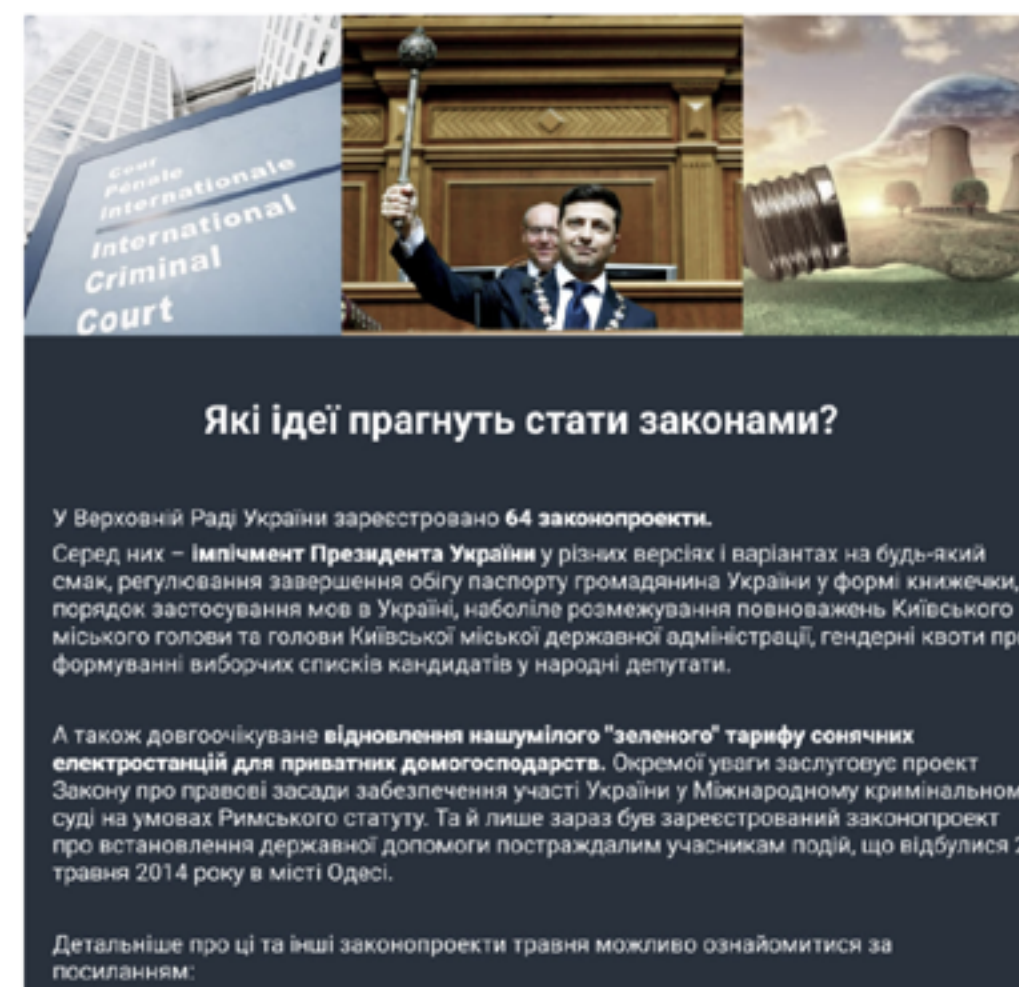




# PUBLIC COMMUNICATION

*We inform the public on a monthly basis about our activities as well as the parliamentary activities by disseminating a newsletters.*

*The lack of constant coverage of the Committee's work on identifying corruptogenic factors in draft laws led to the development of a monthly newsletter to inform the public, stakeholders and all interested parties, sometimes even MPs of Ukraine, about risky draft laws and their status in the parliament.*



Our **newsletter** provides answers to the following questions:

- Q Which draft laws were adopted during plenary sessions?
- Q How productive are the committees of the Verkhovna Rada of Ukraine?
- Q What exactly was registered in the Verkhovna Rada of Ukraine during the last month?
- Q What are the results of the Institute of Legislative Ideas in the field of anti-corruption expertise?

Every month about 90 different public organizations, think tanks and professional associations receive our newsletter.

Our analysts are constantly preparing **articles and blogs** for various publications. All of them are collected on:

Our website

Also, in order to comment on the most relevant and popular topics and highlight important information, we are constantly communicating with TV and radio companies.



# PARTNERS

## Our supporters



## Our media partners

