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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**DRAFT LAW OF UKRAINE
ON THE “JUDICIAL SYSTEM”**

The Law of Ukraine

"On Judicial System"

This Law sets out a legal framework for organizational set-up and working of courts of general jurisdiction in Ukraine with a view to creating appropriate conditions for administering justice, observance of constitutional rights and freedoms of individuals and citizens.

Part 1. GENERAL PROVISIONS

Chapter 1. Administration of justice

Article 1. Administration of justice

The independent judiciary in Ukraine shall exist alongside with the legislative and executive branches of power.

Justice in Ukraine is administered by courts of general jurisdiction established in line with the Constitution of Ukraine and this Law.

Justice in courts is implemented in the form of civil, commercial, administrative and criminal legal proceedings.

Article 2. Legislation on justice

Organizational set-up and working of courts of general jurisdiction is regulated by the Constitution of Ukraine, this Law and other laws of Ukraine.

Article 3. Tasks of Justice

The task of justice is to protect, on the basis of principles of rule of law and equity, the rights, freedoms and legitimate interests of individuals and citizens, the rights and legitimate interests of legal entities and the state.

Article 4. Right for legal protection

Any person shall be guaranteed legal protection of rights, freedoms and legitimate interests.

Nobody shall be deprived of the right to hearing of one's case in the court of law to which one is cognizable in compliance with the law.

In all cases and in accordance with procedures envisaged by the laws of Ukraine civil and economic disputes can be heard and judged by an arbiter with mutual consent of the parties.

Foreign nationals, stateless persons and foreign legal entities within the territory of Ukraine enjoy the right to legal protection on a par with citizens and legal entities of Ukraine.

Article 5. Administration of justice

Justice in Ukraine is administered through hearing:

- 1) civil cases arising in the sphere of civil, labor and other legal relationships;
- 2) economic cases arising in the sphere of economic and other legal relationships;
- 3) administrative cases arising in the sphere of administrative legal relationships;
- 4) criminal cases.

Chapter 2. Basic safeguards for guaranteeing sovereignty of courts and independence of judges, people's assessors and jurors.

Article 6. Sovereignty of courts and independence of judges, people's assessors and jurors.

Courts of law administer justice independently. In administering justice the judges, people's assessors and jurors are free from any exertion of authority and they only submit to the Constitution and laws of Ukraine.

Guarantees for sovereignty of courts of law and independence of judges, people's assessors and jurors are consolidated by the Constitution of Ukraine, this Law and other laws of Ukraine.

All bodies of state power, enterprises, establishments and organizations, local authorities, associations of citizens, legal entities, physical persons shall respect the sovereignty of courts and shall not encroach on it.

Intervention into administering of justice, any exertion of influence upon judges, people's assessors and jurors shall be punishable by law.

Judges, people's assessors and jurors are guaranteed freedom of unbiased judgement of legal cases in compliance with legislation, their legal awareness and inner conviction.

The procedure for case distribution among the judges shall be determined by procedural law. Any party to the case or any participant to judicial proceedings or any other person shall not influence the distribution of cases among the judges. The case can only be retrieved from a judge and passed to another one on the grounds envisaged by the law.

Judges, people's assessors and jurors shall not be obliged to provide any reasoning apropos of cases heard by them and those under their judicature.

Demonstrations, meetings and pickets in the courts' premises and within their perimeter shall be prohibited.

The state budget of Ukraine shall assign in a separate item the amount of expenditures for the maintenance and working of each single court of general jurisdiction.

The amount of expenditures from the state budget of Ukraine for the maintenance and working of the courts of law cannot be reduced by the Verkhovna Rada of Ukraine within the current year.

Article 7. Safeguards for immunity of judges, people's assessors and jurors

The judge shall enjoy immunity. The judge cannot be detained nor arrested without an agreement of the Verkhovna Rada of Ukraine until an indictment has been brought in against him by a court of law. A criminal case against the judge can only be instituted by the Prosecutor General of Ukraine.

Trespassing upon the home or any other property of the judge, any inspection and search there, eavesdropping of telephone conversations, examination and pickup of the judge's mail can only be conducted following a substantiated decision by the justice of the Supreme Criminal Court of Ukraine.

A criminal case against the people's assessor and/or juror, at the time of performing their duties in the court of law related to administering of justice, can only be instituted by the Prosecutor of the Autonomous Republic of the Crimea, prosecutors of oblasts and cities of Kyiv and Sevastopol accordingly.

People's assessor and juror while performing their duties in the court of law related to administering of justice shall be covered by guarantees of immunity envisaged by part two of this article. The substantiated decision on this issue shall be approved by the justice of the Supreme Court of the Autonomous Republic of the Crimea and judges in the courts of oblast, cities of Kyiv and Sevastopol respectively.

Criminal cases against judges of the courts of general jurisdiction are heard in the first instance by the Supreme Court of Ukraine.

Article 8. Irremovability of judges

Judges shall hold their office for life except for those nominated to their office for the first time.

Judges shall be guaranteed their term in office until the age of sixty five. The judge shall only be dismissed on the grounds envisaged by the Constitution of Ukraine and this Law. In case of court's liquidation judges are transferred to another court with their consent.

Chapter 3. Main principles for administering justice

Article 9. Legality

Justice in Ukraine shall be conducted in compliance with the Constitution and laws of Ukraine.

When administering justice courts shall also abide by international agreements the sine qua non to which shall be approved by the Verkhovna Rada of Ukraine.

Article 10. Equality before law and in courts of law

In their duties and responsibilities parties and participants to a trial shall be equal before law and in the court of law.

Any restriction of the rights of parties and participants in a trial or granting them any unfair advantages or privileges based on their race, color of skin, nationality, political or any other convictions, gender, ethnic or social origin, property status, language, religion, education, domicile, type and nature of their occupation or any other circumstances shall not be tolerated.

Article 11. Presumption of innocence and provision of proof of guilt

The person shall be deemed innocent of committing crime and cannot be subjected to criminal punishment until his or her guilt is proven in conformity with the legal procedure and determined by the court sentence. Nobody shall be obliged to prove his or her own innocence of committing the crime. Indictment cannot be based on evidence obtained by unlawful means nor on assumptions.

Court verdicts shall be approved by taking into account the proof of guilt. All doubts as regards the proof of guilt shall be interpreted in person's favor.

Article 12. The right to legal aid during in the court

Any person shall have a right to legal aid in the court.

Legal aid is provided free of charge in the cases and according to the procedure envisaged by law.

Article 13. Adversarial and dispositive nature of proceedings

Hearing of cases in all courts shall be conducted on the basis of adversarial and dispositive principles.

Dispositiveness means providing opportunity for the parties or participants in proceedings to submit evidence and appeals to the court, their participation in interrogation, examination and appraisal of other evidences as well as participation in the debate of the parties and in conducting other procedural action.

Parties are free to submit evidence to court and prove their convictions.

Parties or participants in proceedings shall dispose of their claims and procedural rights at their own discretion except in those cases envisaged by law.

The court shall be obliged to create the adequate conditions and assist the parties and participants in proceedings to exercise their rights and duties during the court session

with a view to ascertaining the objective circumstances as well as proving or rebutting the guilt.

Article 14. Prosecutor's participation in the sessions of the court

The prosecutor shall support state indictment and take part in the sessions of courts of all instances at the time of hearing criminal cases that are submitted to court as well as present the interests of citizens and the state in the court in the cases specified by law.

The scope and limitations of the prosecutor's authority participating in court hearings shall be determined by law.

Article 15. Openness and publicity of proceedings

Proceedings in all courts shall be open to public unless stipulated otherwise by a procedural law. Nobody shall be devoid of information about the time and place of case hearing and the verdict.

The whole trial procedure shall be fully recorded with technical means. Parties and participants in a trial shall have a right to make written notes. Taking pictures, film shooting, TV-shooting, video and audio recording, as well as radio and TV broadcasting of the sitting of the court by the parties and participants of a trial or other persons shall only be allowed with the permission of the court.

Article 16. Right to lodging a complaint and appeal against the court ruling; filing of an application to review a case.

Parties and participants in a trial in all cases and according to the procedure envisaged by procedural law shall have a right to:

- 1) lodge a complaint and appeal against the court ruling, except the cases stipulated by law;
- 2) file an application to review a case due to new evidence or any other circumstances.

Article 17. Mandatory character of the court ruling

Rulings that came into effect and are adopted by courts shall be mandatory for execution by all bodies of state power, local authorities, associations of citizens, officials, physical persons and legal entities across the whole territory of Ukraine. Rulings of foreign courts shall be mandatory for execution across the whole territory of Ukraine provided they are approved by the appropriate court of Ukraine according to the procedure established by the laws of Ukraine, international agreements and approved by the Verkhovna Rada of Ukraine.

The mandatory character of court rulings that came into legal force in courts, public prosecutor's offices, investigating agencies, inquest bodies shall be determined by procedural law.

Non-compliance with court rulings shall be punishable by law.

Article 18. Collective and individual case hearing

In Ukrainian courts cases shall be heard on a collective and individual basis.

When hearing case on a collective basis, judges, people's assessors and jurors shall have equal rights in addressing issues ascribed by the law to their jurisdiction and related to the case under hearing.

All court rulings on these issues shall be approved by a majority vote of judges, people's assessors and jurors in the court.

The procedure for shaping the composition of the court for case hearings shall be determined by procedural law.

Article 19. Direct and oral nature of presentation

When considering the case the court of original and appellate jurisdiction shall directly examine the case evidence.

Evidence obtained by the court of original jurisdiction shall be filed to an appellate court on condition that the latter does have not any doubts in their authenticity.

Persons summoned to court shall give evidence and explanations orally. All materials investigated in court shall be pronounced and discussed orally.

Article 20. Language of legal proceedings and clerical work

Legal proceedings and clerical records in Ukrainian courts shall be conducted in state language.

Persons participating in the case with no or little proficiency in understanding and speaking the official state language shall have a right to use the interpreter's services.

Article 21. People's participation in administering justice.

Citizens of Ukraine shall participate directly in administering justice in cases and according to the procedure determined by the procedural law as people's assessors and jurors.

Participation of citizens of Ukraine in administering justice is their civic duty.

Article 22. Access to justice and procedural economy

The organizational set-up and working of courts shall provide access to justice for every person.

In order to protect the violated rights and legitimate interests of the person courts shall consider cases without delay.

Person that participate in the case shall comply with procedural terms established by law or court.

Article 23. Territorial principle and specialization of courts

The system of courts of general jurisdiction shall be built by the territorial principle and specialization.

Courts of general jurisdiction shall be created in line with administrative and territorial division of Ukraine.

Specialization of courts of general jurisdiction means establishment of the system of specialized courts as independent judicial bodies and according to specialization of judges.

Chapter 4. Symbols of judicial power

Article 24. Symbols of judicial power

The symbols of judicial power shall be the following:

- 1) State flag of Ukraine and State Emblem of Ukraine;
- 2) judge's robe and the insignia

Article 25. State flag of Ukraine and State Emblem as symbols of judicial power

The State flag of Ukraine shall be mounted in the premises of courts.

The State Emblem of Ukraine and the State flag are mounted in the court session halls and offices for judges.

Article 26. Judge's robe and insignia

The judge shall administer justice wearing the judge's robe and insignia.

The description of the judge's robe and insignia as well as the procedure on how to use them is determined by special provisions and is approved by the President of Ukraine.

Article 27. Judge's license

Heads of courts, their deputies and judges shall be given licenses the pattern of which is approved by President of Ukraine.

Part 2. THE JUDICIAL SYSTEM

Chapter 5. The system of courts

Article 28. The system of courts of general jurisdiction

The system of courts of general jurisdiction shall incorporate:

- 1) district (city), city/district, military garrison courts;
- 2) Supreme Court of the Autonomous Republic of the Crimea, oblast courts, Kyiv and Sevastopol city courts;
- 3) commercial courts of the Autonomous Republic of the Crimea, oblast, Kyiv and Sevastopol city commercial courts;
- 4) Regional commercial courts;
- 5) High specialized courts;
- 6) Supreme Court of Ukraine

High civil court of Ukraine, regional commercial courts, commercial courts of the Autonomous Republic of the Crimea, oblast, Kyiv and Sevastopol city courts, military courts in regions and the Navy, district (city), city/district, military garrison courts are specialized courts with competence on civil, criminal and administrative matters.

High commercial court of Ukraine, regional commercial courts, commercial courts of the Autonomous Republic of the Crimea, oblast, Kyiv and Sevastopol city courts are specialized courts with competence economic matters.

District (city), city/district, military garrison courts, commercial courts of the Autonomous Republic of the Crimea, oblast, Kyiv and Sevastopol city courts are local courts.

The Supreme Court of the Autonomous Republic of the Crimea, oblast, Kyiv and Sevastopol city courts, military courts in the regions and in the Navy, regional commercial courts are appellate jurisdiction courts.

High Civil Court of Ukraine, High Commercial Court of Ukraine, High Administrative Court of Ukraine, High Criminal Court of Ukraine are high judicial authorities of specialized courts.

The Supreme Court of Ukraine is the highest judiciary authority within the system of courts of general jurisdiction.

Article 29. The procedure for establishment and liquidation of courts

In compliance with this Law and the proposal of the Minister of Justice approved by the Head of the Supreme Court the President of Ukraine shall establish and liquidate courts of general jurisdiction.

The number of courts of general jurisdiction except for the Supreme Court of Ukraine shall be established by the President of Ukraine following the proposal from the Minister of Justice approved by the Head of the Supreme Court of Ukraine.

The number of justices in the Supreme Court of Ukraine shall be determined by this Law.

Chapter 6. District (city), city/district, military garrison courts.

Article 30. Establishment of district (city), city/district, military garrison courts

District (city) courts shall be set up in accordance with administrative and territorial division of Ukraine within the boundaries of a district, city, city district.

City/district courts shall be established in accordance with administrative and territorial division of Ukraine within the boundaries of the city under oblast jurisdiction and within district.

Military garrison courts shall be established on the territory within which one or several military garrisons are stationed.

District (city), city/district and military garrison courts consist of:

- 1) the head of the court, deputy head and a judge;
- 2) the secretariat of district (city) court, city/district court and military garrison court;

District (city), city/district and military garrison courts shall be a legal entity having a seal with the image of the State Emblem and its name on it.

Article 31. The authority and the procedure for case hearing in the district (city), city/district and military garrison courts

District (city), city/district and military garrison courts shall be the first instance for case hearing in civil, administrative and criminal matters.

Hearing of civil, administrative and criminal cases in district (city), city/district and military garrison courts shall be conducted in line with the specialization of judges.

Civil, administrative and criminal cases in district (city), city/district and military garrison courts shall be examined solely by a judge. Cases shall be examined in a collective manner by court consisting of a judge and two assessors as envisaged by procedural law.

Article 32. The head and deputy head of district (city), city/district and military garrison court.

The head of district (city), city/district and military garrison court in addition to exercising his authority as a judge shall:

- 1) monitor the distribution of cases among the judges, due examination of cases by the judges, their compliance with work discipline and court procedures as well as judges' compliance with court ethics;
- 2) approve the appointment of the head of the court secretariat;
- 3) monitor the work of the court secretariat;

- 4) exercise other authorities conferred upon him or her by the law.

The deputy head of district (city), city/district and military garrison courts in addition to exercising the authority of the judge shall:

- 1) monitor the court's secretariat work within the area of his responsibility according to the executive guidelines issued by the head of district (city), city/district and military garrison courts
- 2) exercise other powers conferred upon him by the law.

Following the proposal of Minister of Justice Ukraine approved by the Council of Justices of Ukraine the President of Ukraine shall appoint the heads and deputy heads of district (city), city/district and military garrison courts for a five-year period and/or dismiss them early provided there is recommendation of the qualifying commission of judges.

The deputy head of court or a judge perform the duties of the head of district (city), city/district and military garrison courts in case of temporary absence of the latter.

Chapter 7. The Supreme Court of the Autonomous Republic of the Crimea, oblast, Kyiv and Sevastopol city courts, military courts in the regions and the Navy.

Article 33. Establishment of The Supreme Court of the Autonomous Republic of the Crimea, oblast, Kyiv and Sevastopol city courts, military courts in regions and the Navy.

The Supreme Court of the Autonomous Republic of the Crimea, oblasts, cities of Kyiv and Sevastopol shall be established according to the territorial and administrative division of Ukraine within the limits of the Autonomous Republic of the Crimea, oblasts, cities of Kyiv and Sevastopol.

The Supreme Court of the Autonomous Republic of the Crimea, oblast, cities of Kyiv and Sevastopol, military courts in regions and the Navy shall consist of:

- 1) the head of the court, deputy heads who are heads of collegiate boards on civil, administrative and criminal cases, and judges;
- 2) court's collegiate boards on civil, administrative and criminal cases;
- 3)
- 4) the secretariat of the Supreme Court of the Autonomous Republic of the Crimea, oblast, cities of Kyiv and Sevastopol, military courts in the regions and in the Navy.

The Supreme Court of the Autonomous Republic of the Crimea, oblasts, cities of Kyiv and Sevastopol, military courts in the regions and in the Navy shall be legal entities that have their seal with the image of the State Emblem of Ukraine and their name on it.

Article 34. The authority of commercial courts and the procedure for hearing of cases in the Supreme Court in the Autonomous Republic of the Crimea, oblasts, cities of Kyiv and Sevastopol, military courts in regions and the Navy.

The Supreme Court of the Autonomous Republic of the Crimea, oblast, cities of Kyiv and Sevastopol, military courts in the regions and the Navy shall be Appellate Courts for hearing of civil, administrative and criminal cases.

The Supreme Court of the Autonomous Republic of the Crimea, oblast, cities of Kyiv and Sevastopol, military courts in the regions and the Navy shall be courts of original jurisdiction for hearing of civil, administrative and criminal cases.

The Supreme Court of the Autonomous Republic of the Crimea, oblast, cities of Kyiv and Sevastopol, military courts in regions and the Navy shall hear cases with new evidence.

The Supreme Court of the Autonomous Republic of the Crimea, and those of oblast, cities of Kyiv and Sevastopol, military courts in regions and the Navy shall hear administrative and criminal cases in original jurisdiction, appellate jurisdiction and

cases with new evidence and these shall be heard by a collegiate board consisting of three judges.

If it is envisaged by procedural law and following the petition of the defendant criminal cases shall be heard with the participation of the jury at sessions of original jurisdiction of the Supreme Court of the Autonomous Republic of the Crimea, and those of oblast, cities of Kyiv and Sevastopol, military courts in regions and the Navy.

Article 35. Head and deputy heads of the Supreme Court of the Autonomous Republic of the Crimea, and those of oblasts, cities of Kyiv and Sevastopol, military courts in the regions and in the Navy

Head of the Supreme Court of the Autonomous Republic of the Crimea, those in oblasts, cities of Kyiv and Sevastopol, military courts in the regions and the Navy shall:

- 1) oversee the distribution of cases among the judges, timely hearing of cases, judges' compliance with work discipline, internal procedures and judicial ethics;
- 2) approve the appointment of the Chief Clerk of the Secretariat;
- 3) monitor the work of the Court's Secretariat;
- 4) exercise other powers assigned to him by law.

Head of the Supreme Court of the Autonomous Republic of the Crimea, and those of oblast, Kyiv and Sevastopol city courts, military courts in the regions and in the Navy shall be appointed for a five-year term and dismissed on the recommendation of the judges' qualifying commission by the President of Ukraine. This follows the proposal of the Minister of Justice of Ukraine and approved by the Board of Justices of Ukraine.

In case of temporary absence of the head of the Supreme Court of the Autonomous Republic of the Crimea, and those of oblast, Kyiv and Sevastopol city courts, military courts in the regions and in the Navy the duties are carried by one of his deputies.

Deputy heads of the Supreme Court of the Autonomous Republic of the Crimea, and those of oblast, Kyiv and Sevastopol city courts, military courts in the regions and in the Navy shall be heads of collegiate boards on civil, administrative and criminal matters and in addition to exercising powers as judges shall:

- 1) monitor areas of responsibilities of the Secretariat following the executive order of the head of the Supreme Court of the Autonomous Republic of the Crimea, and those of oblast, Kyiv and Sevastopol city courts, military courts in regions and in the Navy;
- 2) organize work related to studying and summarizing judicial practice;
- 3) exercise other powers assigned to them by law;

Deputy head of the Supreme Court of the Autonomous Republic of the Crimea, and those of oblast, Kyiv and Sevastopol city courts, military courts in the regions and in the Navy shall be appointed for a five-year term and/or dismissed early by the President of Ukraine following the recommendation of the judges' qualifying commission. This follows the proposal of the Minister of Justice of Ukraine and approved by the Board of Justices of Ukraine.

In case of temporary absence of a deputy head of the Supreme Court of the Autonomous Republic of the Crimea, and those of oblast, Kyiv and Sevastopol city courts, military courts in regions and in the Navy their duties are carried out by one of the judges of an appropriate collegiate board.

Chapter 8. Commercial courts in the Autonomous Republic of the Crimea, in oblasts and cities of Kyiv and Sevastopol.

Article 36. Establishment of commercial courts in the Autonomous Republic of the Crimea, in oblasts, and cities of Kyiv and Sevastopol.

Commercial courts in the Autonomous Republic of the Crimea, and those of oblasts, cities of Kyiv and Sevastopol shall be established according to the administrative and territorial division of Ukraine and within the boundaries of the Autonomous Republic of the Crimea, and those of oblasts, and cities of Kyiv and Sevastopol.

Commercial courts in the Autonomous Republic of the Crimea, and those of oblasts, and cities of Kyiv and Sevastopol shall consist of:

- 1) head, deputy head and judges;
- 2) the Secretariat of commercial courts in the Autonomous Republic of the Crimea, and those of oblast, cities of Kyiv and Sevastopol.

Commercial courts in the Autonomous Republic of the Crimea, and those in oblasts, and cities of Kyiv and Sevastopol shall be legal entities that have a seal with the image of the State Emblem and their name on it.

Article 37. The authority of commercial courts and the procedure for case hearing in commercial courts in the Autonomous Republic of the Crimea, and those in oblasts, cities of Kyiv and Sevastopol

Commercial courts in the Autonomous Republic of the Crimea, and those in oblasts, cities of Kyiv and Sevastopol shall be the first instance for hearing of commercial cases.

Commercial cases shall be examined solely by a judge in commercial courts of the Autonomous Republic of the Crimea, and those in oblasts, cities of Kyiv and Sevastopol.

Commercial cases shall be heard by a collegiate board consisting of three judges in cases envisaged by procedural law.

Article 38. Head and deputy head of the commercial court in the Autonomous Republic of the Crimea, and those of oblasts, cities of Kyiv and Sevastopol

Head of the commercial court in the Autonomous Republic of the Crimea, and heads of oblasts, cities of Kyiv and Sevastopol in addition to their powers as judges shall:

- 1) oversee the distribution of cases among the judges, timely hearing of cases, judges' compliance with work discipline, internal procedures and judicial ethics;
- 2) approve the appointment of the Chief Clerk of the Secretariat;
- 3) monitor the work of the court's Secretariat;
- 4) exercise other powers assigned to him or her by law.

Deputy head of the commercial court in the Autonomous Republic of the Crimea, and those of oblasts, cities of Kyiv and Sevastopol in addition to their powers as judges shall:

- 1) following the executive order of the head of the Supreme Court of the Autonomous Republic of the Crimea, and those of oblasts, Cities of Kyiv and Sevastopol courts, military courts in the regions and in the Navy shall monitor areas of responsibilities of the Secretariat;
- 2) shall organize work related to studying and summarizing judicial practice; shall exercise other powers assigned to him by law;
- 3) exercise other powers assigned to him by law.

Head and Deputy head of the commercial court in the Autonomous Republic of the Crimea, and those of oblast, Kyiv and Sevastopol city courts, military courts in regions and in the Navy are appointed for a five-year term and early dismissed on the recommendation of the judges' qualifying commission by President of Ukraine. This

follows the proposal of the Minister of Justice of Ukraine and approved by the Board of Justices of Ukraine.

In case of temporary absence of the head of the commercial court in the Autonomous Republic of the Crimea, and those of oblasts, cities of Kyiv and Sevastopol his or her duties are carried out by his or her deputy.

Chapter 9. Regional commercial courts

Article 39. Establishment of regional commercial courts

Regional commercial courts shall be established according to administrative and territorial division of Ukraine by President of Ukraine following the proposal of the Ministry of Justice of Ukraine approved by head of the Supreme Court of Ukraine.

Regional commercial court shall consist of:

- 1) head, deputy head and judges;
- 2) the Secretariat of the commercial court;

Regional commercial courts shall be legal entities that shall have a seal with the image of the State Emblem of Ukraine and their name on it.

Article 40. The authority of commercial regional courts and the procedure for case hearing in commercial regional courts

Regional commercial courts shall be an appellate instance for hearing commercial cases.

Regional commercial courts shall be the first instance for hearing commercial cases under their jurisdiction.

Regional commercial courts shall consider cases with new evidence.

Commercial cases in regional commercial courts of the first instance, appellate instance and with new evidence shall be considered by a collegiate board consisting of three judges.

Article 41. Head and deputy head of the regional commercial court

Head of the regional court in addition to his powers as a judge shall:

- 1) oversee the distribution of cases among the judges, timely hearing of cases, judges' compliance with work discipline, internal procedures and judicial ethics;
- 2) approve the appointment of the Chief Clerk of the Secretariat;
- 3) monitor the work of the court's Secretariat;
- 4) exercise other powers assigned to him by law.

Deputy head of a regional commercial court in addition to his or her powers as a judge shall:

- 1) monitor areas of responsibility of the Secretariat following the executive order of the head of a regional commercial court;
- 2) organize work related to studying and summarizing judicial practice;
- 3) shall exercise other powers assigned to him by law;

Head and deputy head of a commercial regional court shall be appointed for a five-year term and/or early dismissed on the recommendation of the judges' qualifying commission by the President of Ukraine. This follows the proposal of the Minister of Justice of Ukraine and approved by the Board of Justices of Ukraine.

In case of temporary absence of the head of the commercial regional court his or her duties are carried out by his or her deputy.

Chapter 10. High specialized courts

Article 42. High specialized courts

The High Civil Court of Ukraine, the High Commercial Court of Ukraine, the High Administrative Court of Ukraine and the High Criminal Court of Ukraine shall be high specialized courts.

High specialized courts shall consist of:

- 1) head, deputy head and judges;
- 2) the Secretariat;

High specialized courts shall be legal entities that shall have a stamp with the image of the State Emblem of Ukraine and their name on it.

High specialized courts are located in Kyiv.

Article 43. Authority and the order of proceedings of the high specialized courts

High specialized courts shall be:

- 1) prosecutor's appeal instance for hearing of civil, commercial, administrative and criminal cases;
- 2) appellate instance for hearing of civil, commercial, administrative and criminal cases by appellate courts of original jurisdiction;
- 3) first instance for civil, commercial, administrative and criminal proceedings under their jurisdiction.

The high specialized courts shall hear cases with new evidence.

In the high specialized courts cases of the first instance, appellate instance and with new evidence shall be heard by a collegiate board consisting of three judges.

Article 44. Plenum of the high specialized court

Plenum of the high specialized court shall consist of the head of the high specialized court, deputy head and judges of the high specialized court.

Plenum of the high specialized court in order to meet the integrity of judicial practice shall give recommendations and explanations to the courts concerning the issues of application of legislation regulating legal relations within the framework of appropriate special jurisdiction.

Plenum of the high specialized court shall be convened by the head of the high specialized court in case of necessity but at least once a month. The decision of the high specialized court shall be valid on condition not less than three thirds of its members take part in the session.

The Minister of Justice and the Prosecutor General of Ukraine participate in the work of the Plenum. Information on the time of the Plenum and agenda for discussion shall be provided not later than ten days before the sitting.

Plenum of the high specialized court shall approve the time limit that regulates hearing of issues to be examined by the Plenum, procedure for passing judgements on different issues.

Resolutions of the Plenum of the high specialized court shall be signed by the head of the high specialized court.

Article 45. Head and deputy head of the high specialized court

The Head of the high specialized court in addition to his or her powers as a judge shall:

- 1) oversee the distribution of cases among the judges, timely hearing of cases, judges' compliance with work discipline, internal procedures and judicial ethics;
- 2) convene and head the Plenum of the high specialized court;
- 3) approve the appointment of the chief clerk of the Secretariat;
- 4) monitor the work of the court's Secretariat;
- 5) exercise other powers assigned to him or her by law.

Deputy head of high specialized court in addition to his or her powers as a judge shall:

- 1) following the order of the head of the Supreme Court of the Autonomous Republic of the Crimea, and those of oblast, Kyiv and Sevastopol city courts, military courts in the regions and in the Navy shall monitor areas of responsibilities of the Secretariat;
- 2) shall organize work related to studying and summarizing of judicial practice; shall exercise other powers assigned to him or her by law;
- 3) exercise other powers assigned to him or her by law.

Head and deputy head of the high specialized court shall be appointed for a five-year term and early dismissed on the recommendation of the judges' qualifying commission by the President of Ukraine. This follows the proposal of the Minister of Justice of Ukraine and approved by the Board of Justices of Ukraine.

In case of temporary absence of head of the high specialized court his duties shall be carried out by his or her deputy.

Chapter 11. The Supreme Court of Ukraine

Article 46. The authority of the Supreme Court of Ukraine and procedure for hearing of cases

The Supreme Court of Ukraine shall:

- 1) review civil, commercial, administrative and criminal cases following petitions of the parties or participants in the trial according to the procedure envisaged by procedural law;
- 2) address the Constitutional Court of Ukraine with petitions concerning constitutionality of provisions of laws and other normative and legal acts in cases when courts of general jurisdiction have doubts as regards constitutionality while administering judiciary;
- 3) file requests concerning interpretation of the Constitution of Ukraine and laws of Ukraine should courts of general jurisdiction while administering judiciary have a need in interpreting contents of Constitutional provisions and laws of Ukraine;
- 4) prepare petitions and give legal opinion in cases envisaged by article 108 and part six of article 111 of the Constitution of Ukraine;
- 5) give advisory recommendations to courts concerning interpretation of legislation in order to apply, in a unified manner, the norms of the Constitution and the laws of Ukraine;
- 6) exercise other powers conferred upon it by the law.

Hearing of the case can be initiated by at least five justices of the Supreme Court of Ukraine.

The Supreme Court of Ukraine shall exercise its powers as a collegiate board within the Plenum of the Supreme Court of Ukraine.

Article 17. Composition of the Supreme Court of Ukraine.

The Supreme Court of Ukraine shall consist of:

- 1) Head of the Supreme Court of Ukraine, his or her deputy, secretary of the Plenum and twelve justices;
- 2) Secretariat of the Supreme Court of Ukraine.

Article 48. Plenum of the Supreme Court of Ukraine

Plenum of the Supreme Court of Ukraine shall consist of the head of the Supreme Court of Ukraine, his or her deputy, justices of the Supreme Court and secretary of the Plenum of the Supreme Court of Ukraine.

Plenum of the Supreme Court of Ukraine shall enjoy full powers on condition that at least two thirds of its composition be appointed or elected.

Plenum of the Supreme Court of Ukraine shall be convened by the head of the Supreme Court of Ukraine should the need arise to do so but at least once a month.

Heads of high specialized courts, the Minister of Justice of Ukraine and the Prosecutor General of Ukraine shall participate in the Plenum of the Supreme Court of Ukraine on the issue of recommendations and explanations concerning legislation. Information on the time of the Plenum and issues to be discussed shall be given at least ten days before the sitting.

The procedure for issues to be discussed at the Plenum of the Supreme Court of Ukraine and passing judgements on such issues shall be determined by the Rules of Procedure approved by the Plenum.

Resolutions of the Plenum of the Supreme Court of Ukraine shall be signed by the head of the Supreme Court of Ukraine and the secretary of the Plenum.

Article 49. Head of the Supreme Court of Ukraine

Head of the Supreme Court of Ukraine shall represent the Supreme Court of Ukraine and other courts of general jurisdiction when dealing with other bodies of state power of Ukraine and authorities of other countries.

The head of the Supreme Court of Ukraine shall be ex officio member of the High Council of Justice.

Head of the Supreme Court of Ukraine in addition to his or her powers as a judge shall:

- 1) convene Plenum of the Supreme Court of Ukraine and chair the sitting;
- 2) submit to the Cabinet of Ministers of Ukraine the draft budget estimate concerning expenditures on maintenance and working the Supreme Court of Ukraine;
- 3) monitor the work of the secretariat of the Supreme Court of Ukraine;
- 4) exercise other powers conferred upon him or her by the law.

Head of the Supreme Court of Ukraine shall be elected following the proposal of the President of Ukraine by secret ballot at the Plenum of the Supreme Court of Ukraine for a five-year term of office.

Head of the Supreme Court of Ukraine shall be considered elected if the majority of Plenum members voted for him or her.

The first Plenum sitting of the Supreme Court of Ukraine, at which the head of the Supreme Court of Ukraine is to be elected, shall be convened by the oldest justice of the Supreme Court of Ukraine who chairs the Plenum session.

Plenum of the Supreme Court of Ukraine shall elect the tellers commission out of its members to conduct elections of the head of the Supreme Court of Ukraine by open vote.

The head and the secretary of the teller's commission shall sign the protocol on the returns of election and announce them to the Plenum.

Recommendation to dismiss the head of the Supreme Court from his or her position shall be submitted to the Plenum of the Supreme Court by the President of Ukraine.

The head of the Supreme Court of Ukraine shall be considered dismissed provided the majority of the Plenum of the Supreme Court of Ukraine voted for it.

Dismissal of the head of the Supreme Court of Ukraine shall be executed according to the same procedure during the Plenum of the Supreme Court of Ukraine.

In case of a temporary absence of the head of the Supreme Court of Ukraine his or her deputy shall carry out his duties.

Article 50. Deputy head of the Supreme Court of Ukraine

A deputy head of the Supreme Court of Ukraine in addition to his or her powers as a judge shall:

- 1) monitor areas of responsibility of the Secretariat following the executive order of the head of the Supreme Court of Ukraine;
- 2) organize work related to studying and summarizing of judicial practice;
- 3) exercise other powers assigned to him or her by the law;

Deputy head of the Supreme Court of Ukraine shall be appointed for a five-year term and his early dismissal shall be pursued by secret ballot during the Plenum of the Supreme Court of Ukraine. This follows the proposal of the head of the Supreme Court of Ukraine according to the procedure envisaged by article 49 of this Law.

Article 51. Secretary of the Plenum of the Supreme Court of Ukraine

Secretary of the Plenum of the Supreme Court of Ukraine, in addition to his/her powers as a judge, shall carry out organizational work aimed at preparing and holding sittings of the Plenum.

Secretary of the Plenum of the Supreme Court of Ukraine shall be elected and dismissed by the Plenum of the Supreme Court of Ukraine following the proposal of the head of the Supreme Court of Ukraine according to procedure envisaged by article 49 of this Law.

Article 52. Secretariat of the Supreme Court of Ukraine

Secretariat of the Supreme Court of Ukraine shall ensure organizational work, information search and expert evaluation to support the activities of the Supreme Court of Ukraine.

The head of secretariat shall be appointed and dismissed by the head of the Supreme Court of Ukraine.

The head of the secretariat and clerical officers shall be civil servants.

The organizational set-up, list of members of staff and the numbers of members of the secretariat of the Supreme Court shall be within the limits of expenditures envisaged by the state budget of Ukraine allocated for the Supreme Court of Ukraine and shall be approved by the head of the Supreme Court of Ukraine.

Article 53. Headquarters and funding of the Supreme Court of Ukraine

The Supreme Court of Ukraine shall be located in the city of Kyiv.

The Supreme Court of Ukraine shall be funded from the state budget of Ukraine.

The expenses allocated for the Supreme Court of Ukraine shall be specified in a separate item in the state budget.

Part 3. JUDGES, ASSESSORS AND JURORS

Chapter 12. Professional judges

Article 54. The legal status of judges

Judges shall be officials who according to the procedure determined by the Constitution of Ukraine and laws of Ukraine shall be authorized to administer justice and perform their duties on a professional basis in the courts of general jurisdiction.

Any citizen of Ukraine, at least twenty five years old, with a university law degree and at least a three year length of service in the sphere of law, resident of Ukraine at least for ten years and speaking the state language, can be recommended by a qualifying commission to take a position of a professional judge in the court of general jurisdiction.

Persons who have professional training in the sphere of jurisdiction of specialized courts can act as judges to consider certain cases in specialized courts. These judges can only administer justice as members of a collegiate board consisting of judges with a university degree in law.

Judges shall not belong to any political party or trade unions, shall not take part in any political activities, nor have a mandate of representation, take any paid positions, perform any other paid job, except for research, teaching and creative activities.

The legal status of judges shall be determined by the Constitution of Ukraine, this Law and other laws of Ukraine.

Article 55. Additional requirements to certain categories of judges

The following requirements shall be established for some single categories of judges:

- 1) the judge of an Appellate Court shall be a citizen of Ukraine, at least thirty years old, with at least eight years of length of service in the field of law;
- 2) the judge of the High specialized court shall be a citizen of Ukraine, at least thirty five years old, with at least five years of length of service in the field of law;
- 3) the judge of the Supreme Court of Ukraine shall be a citizen of Ukraine, at least forty years old, with at least ten years of length of service in the field of law.

Article 56. Office responsibilities and duties of judges

Judges shall unswervingly fulfil the sworn oath:

- 1) to comply with the Constitution and laws of Ukraine when administering justice;
- 2) to secure complete, comprehensive and objective hearing of cases in line with term-limits established by the law;
- 3) not to commit any actions that could discredit the profession of a judge and can cause doubts in his or her unbiased attitude, impartiality and independence;

Judges shall comply with office discipline and court's procedures; shall not reveal state, military, official, commercial and bank secrets; shall not reveal the secrecy of a consultation room as well as facts from private life of individuals and other pieces of information to ensure their non-disclosure in compliance with the decision taken at the off-the-record session of the court.

Article 57. The procedure for conferring powers on the judges

The Minister of Justice of Ukraine shall make a proposal, concerning candidates for a positions of judges of local courts, the Appellate court, the High specialized court, the Supreme Court of Ukraine, to the High Board of Justice for the latter to pass a

decision on submission to the President of Ukraine of the candidacies for the appointment of the judge.

The appointment of the judge to a local court, the Appellate court, the High specialized court, the Supreme Court of Ukraine for a five-year term is made by the President of Ukraine following the recommendation of the Qualifying commission on the proposal of the High Board of Justice.

The selection for a position for life of a judge to a local court, the Appellate court, the High specialized court shall be made by the Supreme Court of Ukraine following the recommendation of the Qualifying commission on the proposal of the Minister of Justice of Ukraine approved by the head of the Supreme Court of Ukraine.

The selection for a position for life of the justice of the Supreme Court of Ukraine following the recommendation of the Qualifying commission shall be made by the Verkhovna Rada of Ukraine based on the proposal of the Head of the Supreme Court of Ukraine.

The Minister of Justice can reject the proposal to select for a position for life of the judge of a local court, the Appellate court, the High specialized court if there are serious violations of office duties by the judge. A complaint can be lodged to the High Administrative court of Ukraine against the decision of the Minister of Justice.

Following Presidential Decree to appoint the judge for a position the Minister of Justice of Ukraine shall issue an executive order indicating the time period from which the judge shall start executing his professional duties.

Following the resolution of the Verkhovna Rada on selection for a position of the judge for life, the Head of the Supreme Court of Ukraine or the Minister of Justice of Ukraine shall issue an executive order indicating the time period from which the judge shall start executing his professional duties in the Supreme Court of Ukraine or in other courts of general jurisdiction.

Article 58. Judge's oath

When assuming office the judge shall take the following oath:

"I (surname, name and patronymic) swear to fulfil the duties of the judge unswervingly and in an honest manner and to adhere to the norms of legal ethics, to perform the judge's duties in an unbiased fashion, to be fair and objective and abide only by the Constitution and laws of Ukraine".

The judge shall swear the oath to the President of Ukraine.

Article 59. The procedure of transfer of judges

A judge can be transferred with his or her agreement from one court to another of the same level or lower level within the term for which he or she has been selected or appointed for a position. This shall be done by the President of Ukraine following the proposal of the Minister of Justice approved by the Head of the Supreme Court of Ukraine.

Article 60. Dismissal from position of judges

Grounds and procedure for dismissal from position of judges, suspension of their powers shall be determined by the Constitution of Ukraine, this Law and other laws of Ukraine.

Chapter 13. Assessors and jurors

Article 61. Assessors and jurors

Assessors shall be the citizens of Ukraine who, in the cases and according to the procedure envisaged by the procedural law, shall be involved in administering justice in district (city), city/district courts for a determined period of time.

Jurors shall be the citizens of Ukraine who, in the cases and according to the procedure envisaged by the procedural law, shall be involved in administering justice in the Supreme Court of the Autonomous Republic of the Crimea, oblast, Kyiv and Sevastopol city courts.

Rights and duties of assessors and jurors when considering the case in the court shall be determined by the procedural law.

Lists of assessors of district (city), city/district courts and lists of jurors of the Supreme Court of the Autonomous Republic of the Crimea, oblast, Kyiv and Sevastopol city courts shall be compiled and approved by the local authorities and the Supreme Council of the Autonomous Republic of the Crimea on the basis of the electorate lists.

Article 62. Requirements to assessors and jurors

To qualify for an assessor or juror one has to be a twenty-five year old citizen of Ukraine.

The following categories of citizens cannot be entered into the lists of assessors and jurors:

- 1) those older than sixty five years of age;
- 2) recognized by the courts as partially or fully disabled;
- 3) ill with chronic, mental and other diseases that prevent them from fulfilling duties of an assessor or a juror;
- 4) who are under investigation, pre-trial investigation or in criminal case hearings;
- 5) those who have an effective or unredeemed conviction;
- 6) people's deputies of Ukraine and deputies of local councils, members of the Cabinet of Ministers of Ukraine, judges, secretariat officers, law enforcement officers, advocates, notaries, priests.

Article 63. The oath of an assessor, juror

Assessors and jurors shall take the following oath before the sitting of the court:

"I solemnly swear to fulfil duties of an assessor (juror) conscientiously, in an unbiased and fair manner in compliance with the Constitution and laws of Ukraine".

Assessors and jurors shall sign the text of the oath that is kept in the court.

Article 64. Grounds for dismissal of assessors and jurors from their duties

The following categories shall be dismissed from duties of an assessor or juror on their request:

- 1) women older than fifty-five years of age;
- 2) men older than sixty-five years of age;
- 3) women on a maternity leave and those who have children of a pre-school age or junior school children or those who have disabled children or other ill people or elderly members of the family;
- 4) persons that because of their religious convictions consider it impossible for them to participate in administering justice;
- 5) other persons, if the court has recognized the reasons they refer to as valid ones;

Persons indicated in this article shall submit a motivated request to dismiss them from fulfilling their duties of an assessor or juror on a specific case before the selection process for the performance of their duties is over.

Article 65. The term for bringing in assessors and jurors to fulfill their duties in court.

Assessors and jurors shall be brought in for performance of their duties in courts of law for at least two weeks a year, except for the cases when the extension of this term is caused by the sheer necessity to complete the case hearing, which was started with their participation.

The written notice sent to an assessor or juror shall have the list of rights and duties of an assessor or juror as well as grounds for their dismissal from fulfilling those duties. This notification is to be handed to them not later than two weeks before the beginning of case hearing in the court of law involving the participation of an assessor or a juror.

Article 66. Remuneration of assessors and jurors

Assessors and jurors shall get remunerated for performance of their duties in the court of law. Assessors and jurors shall get reimbursement for travel costs and rent. They shall also be paid per diem. The Cabinet of Ministers of Ukraine shall establish the amount of payments and the appropriate procedure.

The aforesaid payments shall be made from budget resources allocated for the court maintenance and working.

While performing their duties in the court of law assessors and jurors shall retain all the guarantees and privileges at their place of the work, which are envisaged by the law.

Length of service as an assessor or a juror in court shall be entered into their personal labor record books.

Article 67. Duties of administration at the place of work of assessors and jurors

Administration of an enterprise, agency or organization of any form of ownership shall be obliged to let the assessor or juror stay from work during the case hearing in court.

The court that brings in the assessor or juror to participate in case hearings shall be obliged to inform about it the administration at the place of his or her job no later than two weeks before the beginning of a court sitting.

The refusal, without reason, of the administration of the enterprise, agency or organization of whatever form of ownership, to let the assessor or juror stay from his place of work shall be considered the contempt of court and shall be punishable by law.

Part 4. JUDICIAL SELF-GOVERNANCE

Chapter 14. Judicial self-governance

Article 68. Judicial self-governance

Judicial self-governance is a manner in which judges address issues of internal activities of courts. This shall help create adequate conditions for the working of courts and judges.

Bodies of judicial self-governance exercise their authority through judges' assemblies, conferences, congresses and board sittings.

Judicial self-governance shall be the guarantee of independence and immunity of judges and their irremovability from office.

Procedure for judicial self-governance is determined by the Law of Ukraine "On the bodies of judicial self-governance".

Part 5. ENSURING OF COURTS' ACTIVITIES

Chapter 15. Ensuring of courts' activities

Article 69. High Council of Justice

High Council of Justice shall be a collegiate body established in compliance with the Constitution of Ukraine. It shall be responsible for shaping up a highly skilled body of judges able to administer justice on a professional basis in good faith and in an unbiased manner. The High Council of Justice is also responsible for making decisions concerning the violations by judges of the compliance requirements and disciplinary liability within their competence.

Status, organizational procedure and sequence of activities of the High Council of Justice shall be determined by the Constitution of Ukraine and the Law of Ukraine "On the High Council of Justice".

Article 70. Qualifying commissions of judges

Qualifying commissions of judges shall be the bodies that shape up a professional body of judges able to administer justice on a professional basis, in good faith and in an unbiased manner; they shall recommend the candidates for taking positions as judges, heads and deputy heads in local, Appellate and high specialized courts; determine the level of professional skills of judges and address issues of their disciplinary compliance (except disciplinary compliance of judges of the Supreme court of Ukraine and high specialized courts).

The higher qualifying commission of judges of Ukraine, as well as qualifying commissions for high specialized courts and regional qualifying commissions shall be also established.

Status, organizational procedure and sequence of activities of the qualifying commission of judges shall be determined by the Law of Ukraine "On qualifying commissions of judges in Ukraine".

Chapter 16. Support of courts' activities

Article 71. The authority of the Ministry of Justice of Ukraine on legal support of the court's activities

The Ministry of Justice of Ukraine shall be responsible for implementation of legal policy in the sphere of court procedure, judicial system and judges' status as well as activities of bodies of self-governance and qualifying commission of judges.

In order to promote the court's legal activities the Ministry of Justice of Ukraine shall:

- 1) implement measures aimed at studying and analyzing legal practices of courts in the sphere of civil, commercial, criminal and administrative legal proceedings as well as law application practices in the judiciary system, judges' status, activities of courts' self-governance and the qualifying commission of judges;
- 2) together with the Supreme Court of Ukraine and high specialized courts coordinate the work of courts of general jurisdiction on generalizing legal practices to improve legislative support of courts' activities;
- 3) elaborate, take into consideration the results of studying and analysis of legal application practices and submit draft laws and other normative and legal acts on the judiciary system, legal proceedings, judges' status, activities of courts' self-governance and qualifying commission of judges, and present them to the Cabinet of Ministers of Ukraine, the President of Ukraine and the Verkhovna Rada of Ukraine according to an established procedure.

Article 72. Organizational support of courts' activities

State Judicial Administration of Ukraine shall ensure the activities of courts of general jurisdiction (except for the Supreme Court of Ukraine).

Article 73. State Judicial Administration of Ukraine

The State Judicial Administration of Ukraine shall be a body of state power, which provides organizational support of the activities of courts of general jurisdiction (except for the Supreme Court of Ukraine).

The State Judicial Administration of Ukraine shall consist of the State Judicial Administrations of the Autonomous Republic of the Crimea, oblasts, cities of Kyiv and Sevastopol.

The State Judicial Administration of Ukraine shall be headed by the Head of the State Judicial Administration of Ukraine who is appointed and dismissed by the President of Ukraine following the proposal of the Minister of Justice of Ukraine approved by the Board of Judges of Ukraine.

The Head of State Judicial Administration of Ukraine shall have deputies who are appointed and dismissed by the President of Ukraine following the proposal of the Minister of Justice of Ukraine approved by the Board of Judges of Ukraine.

Following the approval of the Minister of Justice the Head of the State Judicial Administration of Ukraine shall appoint and dismiss heads of the State Judicial Administrations of Ukraine (under the Main Justice Department of the Ministry of Justice) to the local justice departments of the Autonomous Republic of the Crimea, oblasts, cities of Kyiv and Sevastopol.

The Cabinet of Ministers of Ukraine following the proposal of the head of State Judicial Administration of Ukraine approved by the Minister of Justice of Ukraine shall approve the structures and number of staff members of the State Judicial Administration of Ukraine.

The State Judicial Administration of the Ministry of Justice of Ukraine shall exercise its authority in compliance with the Constitution of Ukraine, this Law and other legislative acts as well as Provisions on the State Judicial Administration of Ukraine following the proposal of the Head of the State Judicial Administration of Ukraine approved by the Minister of Justice of Ukraine.

The State Judicial Administration of Ukraine shall have a right to demand and obtain from bodies of state power, enterprises, agencies and organizations of all forms of ownership the information necessary to fulfil its powers.

The Minister of Justice of Ukraine following the proposal of the Head of the State Judicial Administration of Ukraine shall assign judges of courts for general jurisdiction with their consent to new jobs for a five-year period of work with the Ministry of Justice of Ukraine and the State Judicial Administration of Ukraine for legislative and organizational support of courts' activity according to the procedure established by the Cabinet of Ministers of Ukraine.

The State Judicial Administration of Ukraine and the State Judicial Administrations of the Autonomous Republic of the Crimea, oblast, cities of Kyiv and Sevastopol shall be legal entities having a seal with the image of the State Emblem of Ukraine and their own name on it.

The State Judicial Administration of Ukraine shall exercise its authority by:

- 1) making proposals as regards establishment of courts, their location and numbers of staff members according to an established procedure;
- 2) determine the need of courts in staff members, compile lists of reserve candidates for a position of judges, heads and deputy heads of courts and submit suggestions to the Minister of Justice of Ukraine on the issue of staff appointments of judges, heads and deputy heads of courts as well as their transfers and dismissal.
- 3) appoint and dismiss heads of court Secretariat;

- 4) make statistical and personnel collection of data on court staff, project a required number of staff members and fulfil state contract for training of adequate experts for the system of higher and secondary legal education;
- 5) approve guidelines on organizing clerical work within courts of general jurisdiction;
- 6) arrange work on judicial statistics, clerical work and archive;
- 7) examine the work of courts within its competence;
- 8) organize training and practical courses within courts;
- 9) prepare and submit proposals into the draft state budget of Ukraine concerning expenditures earmarked for maintaining courts for the Minister of Justice and approved by the Board of Judges of Ukraine.
- 10) following the approval of the state budget of Ukraine compile cost estimates and monthly breakdown of courts' expenses and submit them to the heads of adequate courts for approval;
- 11) promote financial as well as material and technical support to courts and monitor the expenses;
- 12) take measures as regards material and social support of judges including those in retirement as well as Secretariat officers;
- 13) together with bodies of judicial self-governance organize medical servicing and provide spa-and-health resort treatment and care for judges and Secretariat officers as well as take measures as to provide them with prime quality housing;
- 14) together with bodies of judicial self-governance, courts and law enforcement bodies guarantee independence, immunity and security of judges and members of their families as well as security of courts' premises;

- 15) represent interests of judges and courts in courts according to circumstances and procedure envisaged by law;
- 16) build and repair courts' buildings and premises as well as their fittings and furnishings;
- 17) work out and implement computer networks and software in courts for the purposes of legal proceedings, clerical work and information and normative support of judicial work;
- 18) establish and develop relations with respective bodies and agencies including those of other states with the aim to improve organizational activity of courts;
- 19) report to bodies of judicial self-governance on work progress in organizational activities of courts;
- 20) take other measures concerning ensuring for courts' functioning and judges' activity.

Article 74. The procedure for courts' funding

Courts of general jurisdiction shall be funded in line with the Law of Ukraine "On the State Budget of Ukraine", on the basis of cost estimates and monthly breakdowns of expenses for the Supreme Court of Ukraine approved by the head of the Supreme Court of Ukraine; for high specialized courts - by the head of the respective high specialized court, for Appellate courts and local courts - by the head of the respective court, who are responsible for spending these funds.

Expenses envisaged by monthly breakdown earmarked for maintaining courts of Ukraine shall be transferred by the State Treasury of Ukraine and its affiliates in provinces to respective accounts of the Supreme Court of Ukraine, each high specialized court, Appellate court and local court not later the 10-th day of each month according to an established procedure.

If the State Budget of Ukraine is not adopted for the current fiscal year, the courts of Ukraine are funded on a monthly basis to the amount of one twelfth fraction from the overall amount of annual expenditures envisaged for their needs by the Law of Ukraine "On the State Budget of Ukraine" for the previous fiscal year according to a procedure envisaged by part two of this article before approval the Law of Ukraine "On the State Budget of Ukraine".

In case of failure to observe the terms of funds transfer established by part two of this article, their writing off from single treasury account and entering into current budget accounts of the Supreme Court of Ukraine, each high specialized, Appellate and local court is done in an indisputable manner within five days by the financial and lending institution which has this account opened on the basis of payment claims of the aforesaid bodies.

In case of failure to fulfil the requirements of this Law concerning court funding in Ukraine officials shall bear responsibility envisaged by law.

Article 75. Court's Secretariat

Courts of general jurisdiction (except for the Supreme Court of Ukraine) incorporate a Secretariat that provides logistic support.

The head of Secretariat and its officers are civil servants.

The Cabinet of Ministers of Ukraine approves within the courts the number of members of Secretariat.

The head of Secretariat shall:

- 1) deal with day-to-day organizational issues;
- 2) oversee collection and filing of court's statistical data as well as clerical work and archives;

- 3) be responsible for providing material, technical and financial support in the court and costing of budget estimate to keep the court running;
- 4) recruit and dismiss Secretariat officers, submit proposals as regards conferring them ranks of civil servants, promote them and impose disciplinary punishment in compliance with law;
- 5) be responsible for training and qualifications' improvement;
- 6) exercise other powers conferred on him by the law.

Article 76. National Academy of Judges of Ukraine

The National Academy of Judges of Ukraine shall provide an adequate level of professional training for judges to shape up a highly skilled body of judges.

By exercising its authority the National Academy of Judges of Ukraine shall:

- 1) train persons that are candidates for a position of the judge;
- 2) improve qualification of judges, court staff and Secretariat officers of the Supreme Court of Ukraine;
- 3) conduct academic research in the sphere of court structure and activity.

The National Academy of Judges of Ukraine shall function on the basis of Provisions approved by the President of Ukraine following the joint proposal of the Minister of Justice of Ukraine and Head of the Supreme Court of Ukraine.

The National Academy of Judges of Ukraine is located in Kyiv.

Part 6. FINAL PROVISIONS

Article 77. Final provisions

- 1 This Law shall come into effect starting with the day of its publication.
- 2 The Law of Ukraine "On Judicial System" (Vidomosti of Verkhovna Rada of Ukraine -1981, attachment #24, p.357; 1992, #35,p.508; 1994, #26, p.204), The Law of Ukraine "On Arbitration Court" (Vidomosti of Verkhovna Rada of the Ukrainian Socialist Republic, 1991, #36, p.459; 1992, #32,p.455, #48, p.661; 1993, No.33, p.348; 1997, #18, p.124) shall be recognized as out of effect.
- 3 Within six month following the date of this Law coming into effect there shall be established:
 - 1) the Supreme Court of Ukraine;
 - 2) the High Civil Court of Ukraine, the High Criminal Court of Ukraine, the High Administrative Court of Ukraine, the High Commercial Court of Ukraine on the basis of judicial collegiate board for civil cases and for criminal cases, military collegiate board of the Supreme Court of Ukraine and the High Arbitration Court of Ukraine;
 - 3) Appellate and local courts respectively on the basis of the Supreme Court of Ukraine of the Autonomous Republic of the Crimea, oblast, Kyiv and Sevastopol city courts, district (city) courts, military regional courts and the Navy courts, garrisons, arbitration court of Autonomous Republic of the Crimea, oblast, cities of Kyiv and Sevastopol;
 - 4) regional commercial courts.
- 4 Military garrison courts, regional courts, courts in the Navy shall be established for two years starting with the date of this Law coming into effect.

- 5 Judges of the collegiate board for civil cases, the collegiate board for criminal cases, the military collegiate board of the Supreme Court of Ukraine, on their consent, shall have the powers of judges of the Supreme Civil Court of Ukraine, the High Criminal Court of Ukraine, the High Administrative Court of Ukraine.
- 6 Judges of the High Arbitration Court of Ukraine, on their consent, shall have powers of judges of the High Commercial Court of Ukraine.
- 7 Judges of the Supreme Court of the Autonomous Republic of the Crimea, oblasts, Kyiv and Sevastopol cities, on their consent, shall have powers of judges of respective Appellate courts.
- 8 Judges of district (city) courts, Arbitration courts of the Autonomous Republic of the Crimea, oblast, Kyiv and Sevastopol city, on their consent, shall have powers of judges of respective local courts.
- 9 Judges of military courts in the regions and in the Navy after two years of this Law coming into effect, on their consent and according to the procedure envisaged by article 59 of this Law, shall be transferred to the Supreme Court of the Autonomous Republic of the Crimea, oblast, Kyiv and Sevastopol city courts and shall assume powers of judges of these courts for the term determined by the term of their appointment or election.
- 10 Judges of military garrison courts after two years of this Law coming into effect, on their consent and according to the procedure envisaged by article 59 of this Law, shall be transferred to district (city), city/district courts and shall assume powers of judges of these courts for the term determined by the term of their appointment or election.
- 11 Judges of inter-oblast court, on their consent and according to a procedure envisaged by article 50 of this Law, shall be transferred to appellate courts and shall assume powers of judges of these courts for the term determined by the term of their appointment or election.

- 12 Judges of high specialized courts, appellate and local courts shall be appointed heads and deputy heads of these courts within six months starting with the day of this Law coming into effect.
- 13 Until the system of courts of general jurisdiction has been shaped up according to this Law and adequate changes have been made into the procedural law, the courts of general jurisdiction shall exercise their powers in line with legislation.
- 14 Judges of newly established courts of general jurisdiction shall enjoy the same material and social status which had been conferred upon such judges at the time of passing this law.
- 15 State Judicial administration of Ukraine shall be established within three months starting with the date of this Law coming into effect. State Judicial administration of Ukraine shall be established within the Ministry of Justice of Ukraine for a five-year period starting with the date of this Law coming into effect.
- 16 Laws and other normative and legal acts of Ukraine shall be valid in part that does not go contrary to this Law.
- 17 The hearing of cases with participation of assessors and jurors shall be established starting with January 1, 2005.
- 18 Full recording of judicial proceedings shall be ensured from the first of January, 2005.
- 19 The Cabinet of Ministers of Ukraine shall approve within a three-month period normative and legal acts and shall prepare and submit to the Verkhovna Rada draft laws as regards bringing legislation into compliance with this Law.

20 The Cabinet of Ministers of Ukraine shall organize and implement a judicial reform in compliance with this Law.