Crimea beyond rules

Thematic review of the human rights situation under occupation

Issue N° 5

Occupied justice

Part 1

UHHRU | RCHR | CHROT

HUMAN RIGHTS. ANALYTICS. CRIMEA

RCHR

Regional Centre for Human Rights - NGO, the nucleus of which consists of professional lawyers from Crimea and Sevastopol, specializing in the field of international human rights law.

rchr.org.ua

UKRAINIAN HELSINKI
HUMAN RIGHTS UNION

Ukrainian Helsinki Human Rights Union - non-profit and non-political organization. The largest association of human rights organizations in Ukraine, which unites 29 NGOs, the purpose of which is to protect human rights.

helsinki.org.ua

CHROT - expert-analytical group, whose members wish to remain anonymous.

Some results of work of this group are presented at the link below :

precedent.crimea.ua

Dear readers,

Crimean events at the beginning of 2014 have challenged the post-war system of international security. They stirred up the whole range of human emotions - from the loss of directions in life to the euphoria, from joyful hope to fear and frustration. Like 160 years ago, Crimea attracted the attention of the whole Europe. In this publication we have tried to turn away from emotions and reconsider the situation rationally through human values and historical experience. We hope that the publication will be interesting to all, regardless of their political views and attitudes towards these events.

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Introduction

This issue of the thematic review "Crimea Beyond Rules" was prepared by the joint efforts of a number of organizations and independent experts and is dedicated to the judiciary in the occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol.

The international community recognized the Russian Federation as the Occupying Power, which exercises actual control over Crimea without consent of the Ukrainian government and in the absence of a legally recognized transfer of sovereignty over the part of its territory to the Russian Federation. Since February 2014, the territory of the Crimean peninsula has been occupied, thus the "law of armed conflict" applies to this situation[1].

The review is based on the results of the research conducted by the NGO "RCHR" on the operation of the courts created by the Russian Federation and the extension of its own legislation to the occupied territory, as well as on the assessment of compliance by the Occupying Power with its obligations in the field of justice, taking into account the requirements of international standards and the provisions of IHL.

In the process of the occupation in February-March 2014, the Russian Federation established full control over the operation of the Crimean courts, declared the Autonomous Republic of Crimea and the city of Sevastopol as its own territory, and extended Russian legislation to it[2], obliging the courts to apply it not only to legal relations which occurred after the illegal accession of the occupied territory to territory of the Russian Federation, but also to legal relations that arose before the occupation.

According to Article 43 of the Regulation Respecting the Laws and Customs of War on Land (The Hague Convention of 1907), with the actual transfer to the occupant of the legitimate authority powers, it should take all measures possible to restore and ensure, if possible, public order and security, adhering to the laws in force in the State, unless it is absolutely impossible[3]. This provision is an international custom[4].

Thus, the extension of the Russian legislation to the territory of occupied Crimea contradicts the basic principles and norms of international law.

During the process of the studyand the preparation of this thematic review, all the judges were identified, including those who held their positions before the beginning of the occupation, those who refused to cooperate with the occupying authorities and were forced to leave the occupied peninsula; those who chose to join the service of the Occupying Power and retained the status of a judge; those who were dismissed by the Occupying Power (or voluntarily resigned from the position of a judge a while after the occupation), as well as the judges, newly appointed to the courts of Crimea and the city of Sevastopol, established by the Russian Federation.

The thematic review also provides comparative analysis of the judicial system which existed in Crimea before the occupation and the one that was created by the Occupying Power, as well as assesses the the consequences of the forcible imposition of Russian

1 Report of the Office of the Prosecutor of the ICC for 2019 https://www.icc-cpi.int/itemsDocuments/191205-rep-otp-PE.pdf?fbclid=IwAR31KQMO1GAaCTZIf2N8TEjpYGigMfoSoNcUuScCSpgv0PNKhBozJ8Knhdk

2 In accordance with Article 23 of the so-called "Agreement between the Russian Federation and the Republic of Crimea on the accession of the Republic of Crimea in the Russian Federation and on forming new constituent entities within the Russian Federation", all laws and regulations of the Russian Federation are in force in the territory of the Republic of Crimea and the city of Sevastopol from the date of their accession in the Russian Federation, http://kremlin.ru/events/president/news/20605

3 the Hague Regulation Respecting the Laws and Customs of War on Land, October 18, 1907, Article 43.

4 Trial of the Major War Criminals before the International Military Tribunal, Nuremberg, published in 41 AJIL (1947) 172, in particular paragraphs 248–249; UN Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, July 9, 2004: http://www.icj-cij.org/files/advisory-opinions/advisory-opinions-2004-ru.pdf, paragraphs 89 and 124.

citizenship on Crimean population (including judges) and extention of its own legislation to the occupied territory from the perspective of ensuring the right to a fair and proper trial.

The data of the studyconducted by the Ngo RCHR indicate that, as of November 2019, 20% of judges administering justice in Crimea and the city of Sevastopol are citizens of the Russian Federation. Thus today in the sovereign territory of Ukraine, in violation of international law at least 104 foreign citizens administer justice without consent of Ukraine. The remaining 80% of judges, although they are citizens of Ukraine, however exercise the functions of a judge in violation of Ukrainian law.

The results of the studyclearly confirm the fact that the Russian Federation, as an Occupying Power, fails to fulfill its obligations in the field of justice under IHL and pursues a policy aimed at replacing former Ukrainian judges with its own citizens from various constituent entities of the Russian Federation, restricting civil rights and freedoms in Crimea, and the persecution of civilians for political and religious reasons.

As before, we are convinced that the need for such reviews is temporary. Looking hopefully into the future, we believe that the main task of these materials should be the comprehension of what has happened and consolidation of experience in order to avoid new human rights violations in Crimea or in other regions of the world.

The fifth issue of the thematic review “Crimea Beyond Rules. Occupied Justice” consists of two parts. The second part is scheduled for release in 2020.

The subject of the study conducted during the preparation of this thematic review is the situation regarding the activities of the courts created by the Russian Federation and the spread of its own legislation to the territory of occupied Crimea and the city of Sevastopol, as well as violations of international standards in the field of justice by the Occupying Power from the moment the occupation began in February 2014.

The main tasks of the study were:

1. To analyze the relevant provisions of international law and national legislation of Ukraine and the Russian Federation (taking into account regulations of the occupying authorities) that regulate issues related to the formation of the judicial system, appointment and dismissal of judges, legislative regulation of their independence and impartiality, as well as to conduct their comparative analysis.

2. To monitor the quantitative and qualitative composition of the judiciary on the peninsula at the beginning of the occupation, during the first 9 months after the start of the occupation (until December 23, 2014[5]) and thereafter in order to determine the number of judges who were forced to terminate their functions as judges in the occupied territory and move to mainland Ukraine, were dismissed by the Russian authorities at the end of the so-called transitional period, or those who had left judicial position on their own. Furthermore, the purpose of the monitoring was to identify all the judges who have operated in the occupied territory and continued to operate at the time of the study.

3. To analyze the mechanism and consequences of the extension of Russian legislation to the occupied territory of the peninsula.

4. To analyze the relevant case law of the international judicial bodies regarding the observance of standards of justice in the context of international armed conflict, including occupation.

5. To analyze the occupation courts' operation in the light of respect for certain human rights.

6. To identify the main types of violations of international human rights law and international humanitarian law in the context of the obligation of the Russian Federation to ensure the right to a fair and proper trial in the occupied territory for the subsequent protection of victims in international judicial and quasi-judicial bodies.

To solve the above-mentioned problems, the authors of this thematic review conducted detailed monitoring of Ukrainian judicial system in Crimea, which had operated before the occupation, as well as the system of occupation courts illegally created by the Russian Federationa and occupying authorities, in particular, by collecting and subsequently analyzing the information from open sources and court decisions posted on court websites; carried out comparative analysis in order to identify fundamental changes that occurred in the judicial system of the peninsula; analyzed individual cases in terms of violation of the right to a fair and proper trial by the occupation courts; performed a detailed analysis of the correlation of international humanitarian law, international human rights law and national legislation in order to determine the discretion of the Occupying Power in the context of fulfilling the obligations imposed on it by international humanitarian law.

The authors identified the main problems in ensuring the right to a fair and proper trial by the occupation courts, that is: the initiation of politically motivated prosecutions and

5 The day of the «beginning of operation» of the occupation courts created by the Russian Federation, according to the Decree of the Plenum of the Supreme Court of the Russian Federation of December 23, 2014 No. 21 https://rg.ru/2014/12/25/plenum-vs-dok.html

discrimination against pro-Ukrainian population which is disloyal to the Occupying Power, restrictions on free exercise of religious rights of the population, interference of the occupation authorities with the right to freedom of peaceful assembly, the effect of the compulsory acquisition of Russian citizenship in Crimea on legal proceedings, etc.

In addition, the authors carried out the analysis of the operation of individual judges of the occupation courts in terms of their involvement in violations of the IHRL and IHL in the territory of Crimea starting from February 2014.

The main method used in the study is the comparative legal method, which has its own specifics, taking into account a number of aspects that directly affect the data collection and verification of its reliability. In particular, the capabilities of modern IT technologies were actively used to identify and document violations. As there was no ability for the authors of this thematic review to visit the temporarily occupied territory of Crimea, the search and collection of information was limited to open sources and materials, as well as explanations and files voluntarily provided by victims, lawyers, participants and observers of the events.

In general, the methodology used in the research process allows us to claim that the collected information about the state of the judicial system in the occupied territory and the facts of violations of the right to a fair and proper trial by the Russian Federation is reliable, and the evidence meets the admissibility requirements and can be used in international and national court proceedings.

Main International Standards in the Field of Justice and the Independence of Judges

The Universal Declaration of Human Rights[6]

The Universal Declaration of Human Rights was adopted and proclaimed by resolution 217 A (III) of the UN General Assembly on 110 December 1949 and is an act of the so-called «soft law». However, compliance with the obligations under the Declaration is the subject of continuous monitoring by the international community, even if its provisions are not reflected in the texts of other, more binding international instruments.

In particular, along with other documents, the provisions of the Declaration are the basis of the Universal Periodic Review (UPR), and its violation can be the reason for individual appeals to the United Nations Human Rights Council in accordance with the Human Rights Council Resolution 5/1 of 18 June 2007 (former procedure 1503).

ARTICLE 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

International Covenant on Civil and Political Rights[7]

The Covenant was adopted by the resolution 220 A (XXI) of the UN General Assembly on 16 December 1966. Ukraine (at that time - the USSR as an independent member of the UN) signed the Covenant on 20 March 1968 and ratified it on 19 October 1973. Russia, not being an independent member of the UN, has inherited the obligations under the Covenant as the legal successor of the Soviet Union. The Soviet Union signed the document on 18 March 1968. Presidium of the Supreme Council of the USSR ratified it on 18 September 1973. The document entered into force in Ukraine and the Soviet Union (and respectively in the Russian Federation) simultaneously, on 23 March 1976.

ARTICLE 14

[...] In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. [...]

International Standards of Judicial Independence [8]

This document was adopted in the framework of the International Project of Judicial Independence of the International Association of Judicial Independence and World Peace on March 19, 1998. These standards serve as recommendations for the states to ensure the independence of the judiciary.

Standards confirm personal and substantive independence of judges from the executive branch (clause 2.2). At the same time, personal independence means that the terms and conditions of judicial service are adequately secured by law so as to ensure that individual judges are not subject to executive control (clause 2.2.1.). Substantive independence, in turn, means that in the discharge of his judicial function, a judge is subject to nothing but the law and the commands of his conscience. (clause 2.2.2). Issues of disciplinary responsibility and power of removal of judges should be within the competence of a body that is independent of the Executive (clause 2.7, clause 2.8).

6 https://www.un.org/ru/documents/decl_conv/declarations/declhr.shtml
7 https://www.un.org/ru/documents/decl_conv/conventions/pactpol.shtml
8 https://www.jiwp.org/mt-scopus-standards

Besides, the Legislature shall not pass legislation which reverses specific court decisions (clause 3.1).

Basic Principles on the Independence of the Judiciary[9]

This international instrument was adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985. It establishes the basic principles to organize a judiciary system in accordance with, in particular:

- the independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country. It is the duty of all governmental and other institutions to respect and observe the independence of the judiciary (art. 1);
- the judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason (art. 2);
- the judiciary shall have jurisdiction over all issues of a judicial nature and shall have exclusive authority to decide whether an issue submitted for its decision is within its competence as defined by law (art. 3);
- there shall not be any inappropriate or unwarranted interference with the judicial process, nor shall judicial decisions by the courts be subject to revision [...] (art. 4);
- everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals. (art. 5);
- the principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected (art. 6);

Resolution of the Human Rights Council N° 23/6 of 7 June 2013 on independence and impartiality of the judiciary, jurors and assessors, and the independence of lawyers[10]

This international instrument was adopted at the Twenty-third session of the UN Human Rights Council on June 19, 2013. The resolution enshrines the standards that are necessary to ensure the independence and impartiality of the judiciary. Among these principles and guarantees, the following should be noted:

[…]

calls upon all States to guarantee the independence of judges and lawyers and the objectivity and impartiality of prosecutors, as well as their ability to perform their functions accordingly, including by taking effective legislative, law enforcement and other appropriate measures that will enable them to carry out their professional functions without interference, harassment, threats or intimidation of any kind;

encourages States to promote diversity in the composition of the members of the judiciary, including by taking into account a gender perspective, and to ensure that the requirements for joining the judiciary and the selection process thereof are non-discriminatory, and provide for a public, transparent selection process, based on objective criteria, and guarantee the

9 https://www.ohchr.org/EN/ProfessionalInterest/Pages/IndependenceJudiciary.aspx
10 https://documents-dds-ny.un.org/doc/UNDOC/LTD/G13/144/57/PDF/G1314457.pdf?OpenElement

appointment of individuals of integrity and ability with appropriate training and qualifications in law;

stresses that the term of office of judges, their independence, security, adequate remuneration, conditions of service, pensions and the age of retirement should be adequately secured by law, and that the security of tenure of judges is an essential guarantee of the independence of the judiciary and that grounds for removal must be explicit with well-defined circumstances provided by law, involving reasons of incapacity or behaviour that renders them unfit to discharge their functions, and that procedures upon which the discipline, suspension or removal of a judge are based should comply with due process;

calls on States to ensure that prosecutors can perform their functional activities in an independent, objective and impartial manner;

[…]

Resolution of the Human Rights Council N° 25/4 of 20 March 2014 on Integrity of the judicial system[11]

This resolution was adopted at the Twenty-fifth session of the UN Human Rights Council on March 20, 2014. It emphasizes the importance of the principles of the independence of the judiciary, as defined in the International Covenant on Civil and Political Rights and the Basic Principles of the Independence of the Judiciary. Besides, this document contains the following provisions on standards in the field of justice and independence of judges:

[...]

6. Underlines that any court trying a person charged with a criminal offence should be competent, independent and impartial;

7. Urges States to guarantee that all persons brought to trial before courts or tribunals under their authority have the right to be tried in their presence, to defend themselves in person or through legal assistance of their own choosing and to have all the guarantees necessary for their legal defence;

8. Calls upon States to ensure that the principles of equality before the courts and before the law are respected within their judicial systems by, inter alia, providing to those being tried the possibility to examine, or to have examined, the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them;

9. Reaffirms that every convicted person should have the right to have his/her conviction and sentence reviewed by a tribunal of competent, independent and impartial jurisdiction according to law;

[...]

Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights)[12]

The Convention was signed in Rome on 4 November 1950 and entered into force on 3 September 1953.

Ukraine ratified the Convention on 17 July 1997. The Convention entered into force for Ukraine on 11 September 1997.

Russia ratified the Convention on 30 March 1998. The Convention entered into force for the Russian Federation on 1 August 1998.

11 https://documents-dds-ny.un.org/doc/UNDOC/LTD/G14/121/22/PDF/G1412122.pdf?OpenElement

12 https://www.echr.coe.int/Documents/Convention_ENG.pdf

ARTICLE 6

In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

[...]

European Charter on the Status of Judges[13]

The European Charter on the Status of Judges and its explanatory memorandum were adopted as part of the activities launched by the Council of Europe in 1998. This document does not have a formal status but was adopted to disseminate information on guarantees and standards to ensure the independence of the judges.

This charter enshrines principles such as competence, independence and impartiality of the judges (clause 1.1), the regulation of the status of judges at the highest level of legislation (clause 1.2), the participation of an authority independent of the executive and legislative powers in the selection, recruitment, appointment, career progress or termination of the functions of any judge (clause 1.3), the possibility of making a reference to an independent authority in the event of a threat to the independence of the judge (clause 1.4), the high level of competence of the judge in the performance of his duties (clause 1.5), the duty of the state of ensuring that judges have the means necessary to accomplish their tasks properly (clause 1.6).

Recommendation No. R (94) 12 to Member States on the Independence, Efficiency and Role of Judges (1994)[14]

The Recommendation was adopted by the Committee of Ministers of the Council of Europe on October 13, 1994 at the 518th meeting of deputy ministers.

It states the need to comply with the principle that, in the decision-making process, judges must be independent and act without any restrictions, outside influence, pressure, threats or interference, direct or indirect, from any other parties or for any reason. The law should provide sanctions against individuals attempting to influence judges in any of these ways. Judges should have unlimited freedom to make impartial decisions, guided by their conscience, their interpretation of the facts, and the current law (principle 1.2 (d)). The Committee of Ministers of the Council of Europe also draws particular attention to the need of compliance with the principle that judges, whether appointed or elected, shall have guaranteed tenure until a mandatory retirement age or the expiry of their term of office (principle 1.3).

Opinion No1 (2001) of the Consultative Council of the European Judges (CCJE) for the attention of the Committee of Ministers of the Council of Europe on the independence, efficiency and role of judges and the relevance of its standards and any other international standards to current problems in these fields[15]

Adopted at a meeting of the Council in Strasbourg on November 23, 2001.

The opinion emphasises the need to comply with the principle of the irremovability of judges, which should be an essential element of their independence, and if necessary, be

13 https://rm.coe.int/16807473ef
14 https://www.barobirlik.org.tr/dosyalar/duyurular/hsykkanunteklifi/recR(94)12e.pdf
15 https://www.legal-tools.org/doc/ca5224/pdf/

reflected in the domestic law at the highest level (paragraph 60).

APPLICABLE PROVISIONS OF THE INTERNATIONAL HUMANITARIAN LAW

Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land[16]

It was adopted at the Peace Conferences (June 15 – October 18) in Hague.

ARTICLE 43

The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

Convention (IV) relative to the Protection of Civilian Persons in Time of War[17]

The Fourth Geneva Convention was adopted on 12 August 1949 under the auspices of the International Committee of the Red Cross. It entered into force on 21 October 1950. The participants of the Convention (as well as the other three Geneva Conventions, adopted on the same day in 1949) are all the nations of the world. The Convention contains provisions on the protection of the civilian population in the context of armed conflict, in particular the occupation.

ARTICLE 5

Where, in the territory of a Party to the conflict, the latter is satisfied that an individual protected person is definitely suspected of or engaged in activities hostile to the security of the State, such individual person shall not be entitled to claim such rights and privileges under the present Convention as would, if exercised in the favour of such individual person, be prejudicial to the security of such State.

Where in occupied territory an individual protected person is detained as a spy or saboteur, or as a person under definite suspicion of activity hostile to the security of the Occupying Power, such person shall, in those cases where absolute military security so requires, be regarded as having forfeited rights of communication under the present Convention.

In each case, such persons shall nevertheless be treated with humanity, and in case of trial, shall not be deprived of the rights of fair and regular trial prescribed by the present Convention. They shall also be granted the full rights and privileges of a protected person under the present Convention at the earliest date consistent with the security of the State or Occupying Power, as the case may be.

ARTICLE 54

The Occupying Power may not alter the status of public officials or judges in the occupied territories, or in any way apply sanctions to or take any measures of coercion or discrimination against them, should they abstain from fulfilling their functions for reasons of conscience.

This prohibition does not prejudice the application of the second paragraph of Article 51. It does not affect the right of the Occupying Power to remove public officials from their posts.

16 https://ihl-databases.icrc.org/ihl/INTRO/195

17 https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=AE2D398352C5B028C12563CD002D6B5C&action=open Document

ARTICLE 64

The penal laws of the occupied territory shall remain in force, with the exception that they may be repealed or suspended by the Occupying Power in cases where they constitute a threat to its security or an obstacle to the application of the present Convention. Subject to the latter consideration and to the necessity for ensuring the effective administration of justice, the tribunals of the occupied territory shall continue to function in respect of all offences covered by the said laws.

The Occupying Power may, however, subject the population of the occupied territory to provisions which are essential to enable the Occupying Power to fulfil its obligations under the present Convention, to maintain the orderly government of the territory, and to ensure the security of the Occupying Power, of the members and property of the occupying forces or administration, and likewise of the establishments and lines of communication used by them.

ARTICLE 66

In case of a breach of the penal provisions promulgated by it by virtue of the second paragraph of Article 64, the Occupying Power may hand over the accused to its properly constituted, non-political military courts, on condition that the said courts sit in the occupied country. Courts of appeal shall preferably sit in the occupied country.

ARTICLE 67

The courts shall apply only those provisions of law which were applicable prior to the offence, and which are in accordance with general principles of law, in particular the principle that the penalty shall be proportioned to the offence. They shall take into consideration the fact that the accused is not a national of the Occupying Power.

ARTICLE 68

Protected persons who commit an offence which is solely intended to harm the Occupying Power, but which does not constitute an attempt on the life or limb of members of the occupying forces or administration, nor a grave collective danger, nor seriously damage the property of the occupying forces or administration or the installations used by them, shall be liable to internment or simple imprisonment, provided the duration of such internment or imprisonment is proportionate to the offence committed. Furthermore, internment or imprisonment shall, for such offences, be the only measure adopted for depriving protected persons of liberty. The courts provided for under Article 66 of the present Convention may at their discretion convert a sentence of imprisonment to one of internment for the same period.

The penal provisions promulgated by the Occupying Power in accordance with Articles 64 and 65 may impose the death penalty on a protected person only in cases where the person is guilty of espionage, of serious acts of sabotage against the military installations of the Occupying Power or of intentional offences which have caused the death of one or more persons, provided that such offences were punishable by death under the law of the occupied territory in force before the occupation began.

The death penalty may not be pronounced against a protected person unless the attention of the court has been particularly called to the fact that since the accused is not a national of the Occupying Power, he is not bound to it by any duty of allegiance.

In any case, the death penalty may not be pronounced against a protected person who was under eighteen years of age at the time of the offence.

ARTICLE 69

In all cases, the duration of the period during which a protected person accused of an offence is under arrest awaiting trial or punishment shall be deducted from any period of imprisonment awarded.

ARTICLE 70

Protected persons shall not be arrested, prosecuted or convicted by the Occupying Power for acts committed or for opinions expressed before the occupation, or during a temporary interruption thereof, with the exception of breaches of the laws and customs of war.

Nationals of the occupying Power who, before the outbreak of hostilities, have sought refuge in the territory of the occupied State, shall not be arrested, prosecuted, convicted or deported from the occupied territory, except for offences committed after the outbreak of hostilities, or for offences under common law committed before the outbreak of hostilities which, according to the law of the occupied State, would have justified extradition in time of peace.

ARTICLE 71

No sentence shall be pronounced by the competent courts of the Occupying Power except after a regular trial.

Accused persons who are prosecuted by the Occupying Power shall be promptly informed, in writing, in a language which they understand, of the particulars of the charges preferred against them, and shall be brought to trial as rapidly as possible. The Protecting Power shall be informed of all proceedings instituted by the Occupying Power against protected persons in respect of charges involving the death penalty or imprisonment for two years or more; it shall be enabled, at any time, to obtain information regarding the state of such proceedings. Furthermore, the Protecting Power shall be entitled, on request, to be furnished with all particulars of these and of any other proceedings instituted by the Occupying Power against protected persons.

The notification to the Protecting Power, as provided for in the second paragraph above, shall be sent immediately, and shall in any case reach the Protecting Power three weeks before the date of the first hearing. Unless, at the opening of the trial, evidence is submitted that the provisions of this Article are fully complied with, the trial shall not proceed. The notification shall include the following particulars:

(a) description of the accused;

(b) place of residence or detention;

(c) specification of the charge or charges (with mention of the penal provisions under which it is brought);

(d) designation of the court which will hear the case;

(e) place and date of the first hearing.

ARTICLE 72

Accused persons shall have the right to present evidence necessary to their defence and may, in particular, call witnesses. They shall have the right to be assisted by a qualified advocate or counsel of their own choice, who shall be able to visit them freely and shall enjoy the necessary facilities for preparing the defence. Failing a choice by the accused, the Protecting Power may provide him with an advocate or counsel. When an accused person has to meet a serious charge and the Protecting Power is not functioning, the Occupying Power, subject to the consent of the accused, shall provide an advocate or counsel.

Accused persons shall, unless they freely waive such assistance, be aided by an interpreter, both during preliminary investigation and during the hearing in court. They shall have the right at any time to object to the interpreter and to ask for his replacement.

ARTICLE 73

A convicted person shall have the right of appeal provided for by the laws applied by the court. He shall be fully informed of his right to appeal or petition and of the time limit within which he may do so.

The penal procedure provided in the present Section shall apply, as far as it is applicable, to appeals. Where the laws applied by the Court make no provision for appeals, the convicted person shall have the right to petition against the finding and sentence to the competent authority of the Occupying Power.

ARTICLE 74

Representatives of the Protecting Power shall have the right to attend the trial of any protected person, unless the hearing has, as an exceptional measure, to be held held ' in camera ' in the interests of the security of the Occupying Power, which shall then notify the Protecting Power. A notification in respect of the date and place of trial shall be sent to the Protecting Power.

Any judgment involving a sentence of death, or imprisonment for two years or more, shall be communicated, with the relevant grounds, as rapidly as possible to the Protecting Power. The notification shall contain a reference to the notification made under Article 71, and, in the case of sentences of imprisonment, the name of the place where the sentence is to be served. A record of judgments other than those referred to above shall be kept by the court and shall be open to inspection by representatives of the Protecting Power. Any period allowed for appeal in the case of sentences involving the death penalty, or imprisonment of two years or more, shall not run until notification of judgment has been received by the Protecting Power.

ARTICLE 77

Protected persons who have been accused of offences or convicted by the courts in occupied territory, shall be handed over at the close of occupation, with the relevant records, to the authorities of the liberated territory.

ARTICLE 147

Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or wilfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977[18]

The protocol was adopted at a diplomatic conference in Geneva on June 8, 1977. It was ratified by the Supreme Council of the USSR on August 4, 1989 and the Supreme Council of the Ukrainian SSR on August 18, 1989.

ARTICLE 75

[...]

4. No sentence may be passed and no penalty may be executed on a person found guilty of a penal offence related to the armed conflict except pursuant to a conviction pronounced by an impartial and regularly constituted court respecting the generally recognized principles of regular judicial procedure, which include the following:

(a) the procedure shall provide for an accused to be informed without delay of the

18 https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=D9E6B6264D7723C3C12563CD002D6CE4&action=openDocument

particulars of the offence alleged against him and shall afford the accused before and during his trial all necessary rights and means of defence;

[...]

(c) no one shall be accused or convicted of a criminal offence on account of any act or omission which did not constitute a criminal offence under the national or international law to which he was subject at the time when it was committed; nor shall a heavier penalty be imposed than that which was applicable at the time when the criminal offence was committed; if, after the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby;

[...]

(e) anyone charged with an offence shall have the right to be tried in his presence;

(f) no one shall be compelled to testify against himself or to confess guilt;

(g) anyone charged with an offence shall have the right to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

[...]

(i) anyone prosecuted for an offence shall have the right to have the judgement pronounced publicly;

[...]

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[...]

4. In addition to the grave breaches defined in the preceding paragraphs and in the Conventions, the following shall be regarded as grave breaches of this Protocol, when committed wilfully and in violation of the Conventions or the Protocol:

[...]

(e) depriving a person protected by the Conventions or referred to in paragraph 2 of this Article of the rights of fair and regular trial.

[...]

Convention (III) relative to the Treatment of Prisoners of War, 12 August 1949[19]

It was adopted on August 12, 1949 by the Diplomatic Conference that was held to draft international conventions on the protection of victims of war from April 21 to August 12, 1949.

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Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, compelling a prisoner of war to serve in the forces of the hostile Power, or wilfully depriving a prisoner of war of the rights of fair and regular trial prescribed in this Convention.

19 https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=77CB9983BE01D004C12563CD002D6B3E&action=openDocument

Rome Statute of the International Criminal Court[20]

ARTICLE 8. WAR CRIMES

1. The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes.

2. For the purpose of this Statute, "war crimes" means:

(a) Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

[...]

(vi) Wilfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;

[...]

20 https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf

Law of Ukriane "On the Judicial System and the Status of Judges"[21] dd. July 7, 2010 (as amended on March 2, 2014)

ARTICLE 1. THE JUDICIAL POWER

1. In accordance with the constitutional principles of separation of powers, the judicial power in Ukraine is exercised by independent and impartial courts formed in accordance with the law.

2. The judicial power is exercised by professional judges and, in cases determined by law, people's assessors and jurors, by the administration of justice within the framework of the respective court procedures.

3. Legal proceedings shall be carried out by the Constitutional Court of Ukraine and courts of general jurisdiction.

ARTICLE 5. ADMINISTRATION OF JUSTICE

1. Justice in Ukraine shall be administered exclusively by courts. Any delegation of court functions, as well as usurpation of those functions by other bodies and officials shall not be permitted.

2. Any persons that usurp functions of a court shall be responsible as stipulated by law.

3. The people shall be involved in the administration of justice through people's assessors and jurors.

ARTICLE 51. STATUS OF A JUDGE

1. A judge is a citizen of Ukraine who, according to the Constitution of Ukraine and this Law, has been appointed or elected judge, holds a full-time judicial position in one of the courts of Ukraine and administers justice on the professional basis.

2. Judges in Ukraine shall have the uniform status regardless of the place that the court occupies in the system of courts of general jurisdiction or the administrative position that the judge occupies in the court.

ARTICLE 52. THE IRREMOVABILITY OF JUDGES

1. The judges who hold a position for an indefinite term shall be guaranteed irremovability until they reach the age of sixty-five, except for dismissal or resignation of a judge in accordance with this Law.

2. A judge may not be transferred to another court without their consent.

ARTICLE 53. REQUIREMENTS REGARDING INCOMPATIBILITY

1. Holding a position of a judge shall be incompatible with holding a position in any other body of state power, body of local self-government and a representative mandate.

2. A judge has no right to combine their activities with entrepreneurial activities or legal practice, any other paid occupation (except for teaching, research and creative activities), or be a member of the governing body or a supervisory board in a company or organization that is aimed at making profit.

3. A judge may not belong to a political party or a trade union, demonstrate affiliation to

21 https://zakon.rada.gov.ua/laws/show/2453-17/ed20140302

them, participate in political campaigns, rallies, strikes.

4. A judge, upon their application, may be assigned for work at the Supreme Council of Justice, the High Qualifications Commission of Judges of Ukraine, the National School of Judges of Ukraine, with the preservation of the judicial remuneration size at the main job.

ARTICLE 54. RIGHTS AND DUTIES OF A JUDGE

1. The rights of a judge, associated with the administration of justice, shall be defined by the Constitution of Ukraine, procedural and other laws.

2. A judge shall have the right to participate in judicial self-government. Judges may form public associations and participate in them for the purposes of protection of their rights and interests, and professional qualification upgrading.

3. A judge shall have the right to improve his/her qualification level and undergo the respective training for that purpose.

4. A judge shall be obligated to:

7) promptly, fairly and impartially consider and resolve lawsuits according to law, in compliance with the principles and rules of judicial practice;

8) comply with the rules of judicial ethics;

9) demonstrate respect to parties in a case;

10) observe their oath;

11) not to disclose information that constitutes a secret protected by law, including the secret deliberations and a closed court session;

12) comply with and adhere to restrictions established by the law of Ukraine "On the principles of prevention and countering of corruption";

13) submit annually until April 1 at the place of work a declaration of property, income, expenses and financial obligations for the past year in the form and in the manner established by the Law of Ukraine «On the principles of prevention and countering of corruption»;

[...]

6. A judge appointed to the position of a judge for the first time shall undergo an annual training at the National School of Judges of Ukraine. A judge holding a lifetime judicial position, shall take a training at the National School of Judges of Ukraine not less than one time every three years.

7. Prior to riterement, a judge may be awarded any state awards, as well as any other rewards, honorary signs, diplomas of state authorities and local self-government, except for those state ones or any other rewards, distinctions, diplomas associated with their administration of justice.

ARTICLE 55. THE OATH OF THE JUDGE

1. A person appointed judge for the first time shall assume judicial powers after taking the judicial oath of office as follows: «I, (full name), occupying this position of a judge, do solemnly swear to Ukrainian people to administer justice objectively, fairly, impartially, independently, justly and in a highly qualified manner in the name of Ukraine, following the principle of the rule of law, subject only to the law, honestly and in good faith exercise powers and perform duties of a judge, observe ethical principles and rules of conduct of a judge, not to perform any actions that discredit the title of a judge or undermine the authority of justice.»

2. The judge shall be sworn in at a ceremony in the presence of the President of Ukraine.

The text of the oath shall be signed by the judge and kept in his/her judge file.

ARTICLE 56. JUDICIAL ETHICS

1. Matters of judicial ethics shall be defined by the Code of Judicial Ethics, to be approved by the Congress of Judges of Ukraine.

ARTICLE 57. THE STATUS OF A PEOPLE'S ASSESSOR AND JUROR

1. A people's assessor and a juror is a citizen of Ukraine who, in cases envisaged by the procedural law and upon their consent, considers cases in court along with a professional judge, ensuring, in accordance with the Constitution of Ukraine, direct participation of the people in the administration of justice.

2. In the course of consideration and resolution of cases people's assessors shall enjoy the powers of a judge. People's assessors and jurors shall carry out the duties specified in paragraphs 1 - 5 in part four of Article 54 of this Law.

ARTICLE 59. REQUIREMENTS TO THE PEOPLE'S ASSESSORS, JURORS

1. A people's assessor, a juror may be a citizen of Ukraine who has reached the age of thirty and is a resident in the territory under the jurisdiction of the respective court.

2. The following citizens may not be included in the list of people's assessors and jurors:

1) those recognized by court to be partially legally capable or incapable;

2) those who have chronic mental or other diseases that prevent them from performance of duties of a people's assessor, juror;

3) those who have an unexpunged or not annulled conviction;

4) People's Deputies of Ukraine, members of the Cabinet of Ministers of Ukraine, judges, public prosecutors, officers of internal affairs bodies and other law enforcement agencies, members of the armed forces, court staff, other public servants, local self-government officials, lawyers, notaries;

5) citizens over sixty-five years;

6) persons who do not speak the national language.

3. A person included in the list of people's assessors or the list of jurors shall be obligated to inform the court of any circumstances that make it impossible for them to administer justice, if any.

ARTICLE 64. REQUIREMENTS TO CANDIDATES FOR A POSITION OF JUDGE

1. A citizen of Ukraine who is at least twenty five years old, has a higher education in law and practical experience in law for at least three, residing in Ukraine for at least ten years and speaks the state language, may be nominated to the position of a judge.

2. The following citizens may not be nominated for a position of a judge:

1) recognized by court as partially capable or incapable;

2) those with chronic mental or other diseases that prevent them from performing the functions of the administration of justice;

3) those who have an unexpunged or unspent conviction.

3. Additional requirements for candidates for the position of judge in higher courts shall

be established by this Law.

4. For the purposes of this Article, the following shall be assumed:

1) higher legal education is higher legal education to the master's degree (or equivalent higher education by for the training and qualification of the specialist), acquired in Ukraine, as well as higher legal education of the respective degree received in foreign countries and recognized in Ukraine in accordance with the procedures envisaged by law ;

2) work experience in law is the person's experience of work in the professional field after obtaining higher legal education.

ARTICLE 65. SELECTION OF CANDIDATES FOR THE POSITION OF JUDGE

1. The selection of candidates for the post of judge is carried out from among those who meet the requirements established by the Constitution of Ukraine and Article 64 of this Law, according to the results of special training and passing a qualification exam in accordance with the requirements of this Law.

2. When selecting candidates for the position of judge, equality of their rights shall be ensured regardless of race, color, political, religious and other beliefs, gender, ethnic and social origin, property status, place of residence, language or other characteristics.

3. Everyone who meets the established requirements for a candidate for the post of judge has the right to apply to the High Qualifications Commission of Judges of Ukraine with a statement about their participation in the selection of candidates for the post of judge.

ARTICLE 66. PROCEDURE FOR APPOINTMENT TO POSITION OF JUDGE FOR THE FIRST TIME

1. Appointment of a judge to the position for the first time shall be carried out exclusively in accordance with the procedure stipulated by this Law, and includes the following stages:

1) placement by the High Qualifications Commission of Judges of Ukraine of an announcement on its official website regarding the selection of judicial candidates, and publication of that announcement in a selected printed mass medium.

2) submission by persons who intend to be a judge of a respective application and documents, specified in this Law, to the High Qualifications Commission of Judges of Ukraine;

3) Verification by the High Qualifications Commission of Judges of Ukraine that the persons, who submitted applications to participate in the selection, meet the requirements established in this Law to a candidate for position of judge, on the basis of the documents submitted;

4) passing by persons who meet the established requirements for a candidate for a judge's position, an exam before the High Qualification Commission of Judges of Ukraine to identify the level of general theoretical knowledge in the field of law;

5) referral of candidates who have successfully passed the exam and passed the necessary checks to undergo special training;

[...]

7) admission of candidates who have successfully completed special training to pass the qualification exam before the High Qualification Commission of Judges of Ukraine;

8) determination by the High Qualifications Commission of Judges of Ukraine of the rating of candidates for the post of judge based on the results of the qualification exam, their

inclusion in the reserve for filling vacant judge position;

9) the announcement by the High Qualification Commission of Judges of Ukraine in the event of the opening of vacant judges' positions for a competition to fill such positions among candidates who are in reserve;

10) conducting by the High Qualifications Commission of Judges of Ukraine, based on the rating of the candidate in accordance with the number of vacant positions of a judge, of the selection among candidates who participated in the competition and making recommendations to the High Council of Justice on the appointment of a candidate for the position of a judge;

11) consideration at a meeting of the High Council of Justice in accordance with the recommendation of the High Qualification Commission of Judges of Ukraine of a matter of appointment of a candidate for the position of a judge and, if a positive decision is made, a submission to the President of Ukraine regarding the appointment of a candidate for the position of a judge;

12) taking a decision on the appointment of a candidate for a position of a judge by the President of Ukraine.

ARTICLE 67. SUBMISSION OF DOCUMENTS TO THE HIGH QUALIFICATIONS COMMISSION OF JUDGES OF UKRAINE BY A CANDIDATE FOR POSITION OF JUDGE

1. In order to participate in the selection procedure, a candidate for position of judge shall submit:

1) written application for participation in the selection of candidates for a position of a judge;

2) copy of the passport of a citizen of Ukraine;

3) personal data form of a candidate for a position of a judge containing information about them;

4) copies of diplomas in Law (with appendices) issued by universities in Ukraine, copies of diplomas in Law issued by foreign universities along with copies of documents confirming recognition of such universities in Ukraine, as well as copies of documents confirming academic degrees (if available);

5) extract from the the employment record book about work experience in the field of law;

6) the conclusion of the medical institution on the state of health of the candidate (the medical institutions that provide such a conclusion, as well as the form of the conclusion, are determined by the High Qualification Commission of Judges of Ukraine in agreement with the authorized central executive body for health);

7) written consent to the collection, storage, processing and use of information on the candidate for the purposes of evaluation their readiness to work on the position of a judge and conducting a special verification procedure in relation to them;

8) a declaration of property, income, expenses and financial obligations for the past year in the form and in the manner established by the Law of Ukraine «On the principles of prevention and countering of corruption»;

9) copy of military card (for military personnel or obligated reservists);

10) a certificate of admission to state secret (if any).

The form and content of the application to participate in the selection of candidates for a position of a judge and of the personal details form of candidates for a position of a judge shall be approved by the High Qualifications Commission of Judges of Ukraine and posted at its official website.

Any documents not expressly specified in this Article may not be requested from the candidate.

2. Acceptance of documents is completed on the day specified in the announcement as the final term for submission. Applications received after the final term shall not be considered.

3. Persons who have submitted all the necessary documents shall be admitted to the selection of candidates for a position of a judge. In case of nonadmission of a person to the selection of candidates for a position of a judge, the High Qualifications Commission of Judges of Ukraine shall pass a substantiated decision.

ARTICLE 68. PROCEDURE FOR SELECTION OF CANDIDATES FOR POSITION OF JUDGE

1. The selection of candidates for the position of judge consists in passing anonymous testing (exam) by them in order to identify the level of their general theoretical knowledge and to conduct a special check on them for their compliance with the established requirements for a candidate for the position of judge. A special audit is also carried out regarding information submitted by candidates personally, in the manner prescribed by law.

2. For conducting a special audit, the High Qualification Commission of Judges of Ukraine has the right to collect information about the candidate, to apply for information about the candidate for the position of judge in enterprises, institutions, organizations of all forms of ownership. Based on the results of the consideration of such requests, relevant information is submitted within ten days to the High Qualifications Commission of Judges of Ukraine. Failure to provide such information or providing it in violation of the established deadline entails liability provided by law.

3. Organizations and citizens have the right to submit information on candidates for the post of judge to the High Qualification Commission of Judges of Ukraine.

4. Persons who meet the established requirements for a candidate for the position of judge are allowed to pass the exam.

ARTICLE 70. QUALIFICATION ASSESSMENT

1. The qualification assessment is an evaluation of a person who took training and expressed an intention to be recommended for appointment to a position of a judge.

2. The qualification assessment is aimed at identifying the level of theoretical knowledge and professional skills of a candidate to a position of a judge, including those gained in special training, and a degree of their preparedness to administering justice.

3. The qualification assessment shall be passed by a candidate for a position of a judge taking a written anonymous test and doing an anonymous written practical task to identify the level of knowledge and practical skills in application of law and the conduct of a court session.

4. The qualification assessment shall be conducted by the High Qualifications Commission of Judges of Ukraine in premises specially equipped for that purpose. The course of the qualification assessment shall be recorded by video and audio recording equipment.

5. The procedure for undergoing the qualification assessment and methods of the evaluation of candidates shall be established by regulation approved by the High Qualifications Commission of Judges of Ukraine.

6. The results of the qualification assessment shall be valid for three years upon the date of the assessment.

7. A person who has failed the qualification assessment may be admitted to the repeated

qualification assessment not earlier than one year thereafter. A person who has not passed the qualification assessment again may be admitted to the next assessment not earlier than two years thereafter.

8. The High Qualifications Commission of Judges of Ukraine shall rank the candidates for a position of a judge according to the points scored by the candidates in the qualification assessment and shall add them to the reserve for filling the vacant judge positions.

9. Information on the results of the qualification assessment and a candidate's place in the ranking for a position of a judge shall be publicly available and published at the official website of the High Qualifications Commission of Judges of Ukraine.

10. The results of the qualification exam can be appealed to the High Council of Justice, which can cancel the decision of the High Qualification Commission of Judges of Ukraine and oblige it to conduct a re-qualification examination of the candidate for the position of judge who filed a complaint.

ARTICLE 71. HOLDING A CONTEST TO OCCUPY A VACANT POSITION OF A JUDGE

1. In order to hold a contest to occupy a vacant position of a judge, the High Qualifications Commission of Judges of Ukraine shall place relevant information on its website and publish this announcement in selected print media, not later than one month before the day of the contest.

2. The contest announcement shall indicate the name of the court where positions of judges are open, the number of such positions, terms and conditions of contest, its date, time and venue.

3. Candidates for the position of judge who are in reserve and have expressed a desire to participate in a contest for vacant positions, within the specified time period shall submit their written applications to the High Qualifications Commission of Judges of Ukraine.

4. The High Qualifications Commission of Judges of Ukraine shall hold a contest to fill the vacant positions of judges proceeding from the ranking of candidates based on the results of the qualification assessment and the number of points scored by candidates. The number of points scored is the primary criterion when the Higher Qualification Commission of Judges of Ukraine conducts a competitive selection of candidates for vacant positions of judges. In the case of in case of an equal score, the advantage is given to the candidate who has a longer experience in Law.

5. Following the contest selection, the High Qualifications Commission of Judges of Ukraine shall send to the High Council of Justice, in accordance with the number of vacant positions of a judge, its recommendations on the appointment of candidates to judge positions.

6. In accordance with the recommendations given by the High Qualifications Commission of Judges of Ukraine, the High Judicial Council shall consider at its meeting the appointment of a candidate to a position of a judge and, in case of the positive decision, make a proposal to the President of Ukraine on the appointment of a candidate.

ARTICLE 72. APPOINTMENT TO A POSITION OF A JUDGE

1. Appointment to a position of a judge shall be done by the President of Ukraine on the grounds and within the proposal of the High Council of Justice, without verification of the requirements for candidates for a position of a judge, established by this Law , and procedure for the selection of candidates for the position of a judge.

2. Any enquiries regarding a candidate for a position of a judge shall not prevent their appointment to a position of a judge. Facts stated in those enquiries may serve as grounds for the President of Ukraine to raise an issue with the competent authorities of conducting an inquiry into those facts following a procedure envisaged by law.

3. The President of Ukraine shall issue a decree on the appointment of a judge within

thirty days of receipt of the proposal of the High Council of Justice

ARTICLE 74. THE PROCEDURE OF ELECTION TO THE POSITION OF A JUDGE FOR AN INDEFINITE PERIOD

1. The procedure for the election of a judge for an indefinite period of time is established by this Law and the Regulations of the Verkhovna Rada of Ukraine.

2. A judge whose term of office is expiring, upon their request must be recommended by the High Qualifications Commission of Judges of Ukraine for their election by the Verkhovna Rada of Ukraine to a lifetime position of a judge, in the absence of any law-defined circumstances preventing that.

3. Election to the position of a judge for an indefinite period shall be done in accordance with the following procedure:

1) A candidate shall submit a written application to the High Qualifications Commission of Judges of Ukraine requesting to be recommended for election to a position of a judge for an indefinite period;

2) The High Qualifications Commission of Judges of Ukraine shall announce preparation of materials on a candidate for a position of a judge for an indefinite period on its official website and in the official mass media;

3) The High Qualifications Commission of Judges of Ukraine shall review the information on the candidate, examine their judicial dossier, take into account indicators of the candidate's consideration during their work as a judge and, in cases envisaged by this Law, the results of their qualification evaluation;

4) The High Qualifications Commission of Judges of Ukraine shall take a substantiated decision to recommend or refuse to recommend them for election as a judge for an indefinite time and, in case of recommendation, send the respective proposal to the Verkhovna Rada of Ukraine;

5) The Committee of the Verkhovna Rada of Ukraine, which is responsible for considering issues related to the election of judges and the dismissal of judges who are elected indefinitely, considers the idea of electing a candidate for the office of a judge indefinitely, makes a decision on the recommendation or refusal to recommend a candidate for the position of judge indefinitely and introduces it this decision for consideration by the Verkhovna Rada of Ukraine;

6) The Verkhovna Rada of Ukraine decides on the election of a candidate or the refusal to elect a judge for an indefinite period.

ARTICLE 75. AN ADDRESS OF A CANDIDATE FOR A POSITION OF A JUDGE FOR AN INDEFINITE PERIOD TO THE HIGH QUALIFICATIONS COMMISSION OF JUDGES OF UKRAINE

1. A candidate for a lifetime position of a judge shall, not later than six months before the expiration of the term of office of a judge, address the High Qualifications Commission of Judges of Ukraine with an application to recommend them to be elected to a position of a judge for an indefinite period.

2. An application to the High Qualifications Commission of Judges of Ukraine regarding recommendation for election to a lifetime position of a judge may also be submitted by a candidate who was dismissed from a position of a judge due to the end of the term for which they were appointed, and who did not previously address the High Qualifications Commission of Judges of Ukraine with an application for their election to the position of judge for an

indefinite period within three years from the time of their dismissal.

3. A candidate whose period from the time of dismissal from the position of a judge exceeds the period specified in part two of this Article may be recommended by the High Qualifications Commission of Judges of Ukraine for election to a position of a judge for an indefinite period after undergoing the qualification assessment in accordance with this Law.

4. To participate in the selection, a candidate for election as judge for an indefinite period shall submit:

1) written application on the recommendation of the candidate for election as a judge for an indefinite period;

2) copy of the passport of a citizen of Ukraine;

3) personal data form of a candidate for a position of a judge for an indefinite period containing information about them;

4) copies of diplomas of education, academic degree or academic rank;

5) extract from the employment record book attesting the work experience as a judge;

6) the conclusion of the medical institution on the state of health of the candidate (the medical institutions that provide such a conclusion, as well as the form of the conclusion, are determined by the High Qualification Commission of Judges of Ukraine in agreement with the authorized central executive body for health);

7) declaration of property, income, expenses and financial obligations for the past year in the form and in the manner established by the Law of Ukraine «On the principles of prevention and countering of corruption»;

8) written consent to the collection, storage, processing and use of information on the candidate for the purposes of evaluation their readiness to work on the position of a judge for an indefinite period;

The form and content of the application to participate in the selection of candidates for a position of a judge for an indefinite period and of the personal details form of candidates for a position of a judge for an indefinite period shall be approved by the High Qualifications Commission of Judges of Ukraine and posted at its official website.

5. It is prohibited to require a candidate to provide any documents not expressly specified in this Article, except in cases where it is necessary to provide explanations in connection with information regarding his activities as a judge.

ARTICLE 76. PROCEDURE FOR CONSIDERATION OF ELECTION OF A CANDIDATE TO A POSITION OF JUDGE FOR A LIFETIME BY THE HIGH QUALIFICATIONS COMMISSION OF JUDGES OF UKRAINE

1. The High Qualifications Commission of Judges of Ukraine shall announce preparation of materials regarding a candidate for a position of a judge for an indefinite period at the official website of the judicial authorities not later than on the next business day upon the delivery of the candidate's application.

2. The High Qualifications Commission of Judges of Ukraine shall consider the matter of election of a candidate to a position of judge for an indefinite period not later than two months before the expiry of their term of office as a judge.

3. The High Qualifications Commission of Judges of Ukraine shall verify compliance by the candidate for a position of a judge for an indefinite period with the requirements of Article 127 of the Constitution of Ukraine, and Articles 53, 64 of this Law, and also considers appeals of citizens, public organizations, enterprises, institutions, organizations of all forms of ownership, state authorities and local authorities regarding the activities of the candidate.

4. A candidate whose election to a position of a judge for an indefinite period is being considered, shall be entitled to access information about their activities, enquiries of the High Qualifications Commission of Judges of Ukraine and the responses to them.

ARTICLE 79. THE DECISION TO RECOMMEND OR REFUSE TO RECOMMEND A CANDIDATE FOR ELECTION TO A POSITION OF A JUDGE FOR AN INDEFINITE PERIOD

1. The decision to recommend or refuse to recommend a candidate for election to a position of a judge for an indefinite period shall be taken at an open meeting of the High Qualifications Commission of Judges of Ukraine in presence of the candidate, in a manner stipulated by the Rules of Procedure of the High Qualifications Commission of Judges of Ukraine, and announced immediately after it has been taken.

2. The decision of the High Qualifications Commission of Judges of Ukraine to refuse to recommend a candidate for election to a position of a judge for an indefinite period in the event of failure by the High Qualifications Commission of Judges of Ukraine to adhere to the procedure for election to a position of a judge for an indefinite period may be appealed in court in a manner prescribed by the Law of Ukraine «On the High Council of Justice»..

3. Proceeding from the decision not to recommend a candidate for election to a position of a judge for an indefinite period, taken by the High Qualifications Commission of Judges of Ukraine, the High Council of Justice shall submit a proposal to the President of Ukraine regarding dismissal of that candidate from the position of a judge.

ARTICLE 78. PROPOSAL FOR ELECTION OF A CANDIDATE FOR A POSITION OF A JUDGE FOR AN INDEFINITE PERIOD

1. The proposal of the High Qualifications Commission of Judges of Ukraine and its decision on the recommendation for election of a candidate to a position of a judge for an indefinite period shall be sent to the Verkhovna Rada of Ukraine not later than one month before the expiry of the candidate's term in office as a judge.

2. The proposal shall indicate the family name, personal name and patronymic of the candidate and the title of the court to which the candidate is proposed to be elected.

ARTICLE 79. CONSIDERATION AND PASSING OF THE DECISION BY THE VERKHOVNA RADA OF UKRAINE ON ELECTION OF A CANDIDATE TO A POSITION OF A JUDGE FOR AN INDEFINITE PERIOD

1. The procedures of consideration and passing of the decision by the Verkhovna Rada of Ukraine on election of a candidate to a position of a judge for an indefinite period shall be stipulated by this Law and the Rules of Procedure of the Verkhovna Rada of Ukraine.

2. The issue of electing a candidate for the post of judge shall be considered indefinitely at the plenary meeting of the Verkhovna Rada of Ukraine in the presence of the conclusions of the Committee of the Verkhovna Rada of Ukraine.

3. Consideration of the election of a candidate for the post of judge indefinitely at a plenary meeting of the Verkhovna Rada of Ukraine begins with a report determined by the Committee of the Verkhovna Rada of Ukraine.

4. The decision on the election of a candidate for the post of judge shall be unlimitedly adopted by the majority of the constitutional composition of the Verkhovna Rada of Ukraine and executed by a resolution of the Verkhovna Rada of Ukraine.

5. A person elected to a judge's position indefinitely acquires the status of a judge from the day the relevant resolution of the Verkhovna Rada of Ukraine comes into force.

6. In case a candidate to the position of a judge for an indefinite period has not been

elected, the High Council of Justice shall motion for the removal of the candidate from the position of a judge due to expiry of the term for which they were appointed.

ARTICLE 100. GENERAL TERMS OF DISMISSAL OF JUDGES

1. A judge of the court of general jurisdiction shall be dismissed by the body that elected or appointed him solely on the grounds stipulated in part five of Article 126 of the Constitution of Ukraine, on the proposal of the High Council of Justice.

ARTICLE 101. DISMISSAL OF JUDGES IN CASE OF TERMINATION OF THE TERM OF APPOINTMENT

1. The High Council of Justice shall submit a proposal to the President of Ukraine on dismissal of the judge in case of termination of the term of appointment if:

1) the judge, according to the High Qualifications Commission of Judges of Ukraine, did not submit, without good cause, an application for his election to the permanent position of the judge;

2) the High Qualifications Commission of Judges of Ukraine, in respect to the judge, resolved to refuse to recommend him for election to the permanent position of the judge;

3) the candidate for the permanent position of the judge was not elected by the Verkhovna Rada of Ukraine.

2. The High Council of Justice shall submit a proposal for dismissal of a judge due to the end of the term of appointment, indicating the date on which the judge should be dismissed.

3. The judge shall be dismissed by the President of Ukraine.

4. If a judge has not been not dismissed, for any reason, he shall not be able to exercise his powers of administration of justice as of the day following the expiration of the term of appointment.

ARTICLE 102. DISMISSAL OF JUDGES FOR AGE

1. The judge shall be dismissed for age as of the day following the reaching of the age of sixty five.

2. The High Qualifications Commission of Judges of Ukraine shall, not later than one month prior to the date specified in part one of this Article, notify the High Council of Justice of the presence of grounds for the dismissal of the judge.

3. The High Council of Justice shall submit a proposal on the dismissal of a judge for reaching the age of sixty-five to the body which elected or appointed the judge not later than within fifteen days prior to the date specified in part one of this Article.

4. If a judge has not been not dismissed, for any reason, he shall not be able to exercise his powers of administration of justice as of the day following the reaching the age of sixty-five

ARTICLE 103. DISMISSAL OF JUDGES FOR HEALTH REASONS

1. The judge shall be dismissed in case of failure to exercise powers for health reasons upon availability of a medical opinion provided by the medical board established by a specially authorized central executive health authority, or under the court decision on recognizing the judge partially or fully incapacitated, which came into force.

2. Having recognized that the health status does not allow a judge to permanently or for a long time exercise his powers, the High Council of Justice shall submit a proposal on the

dismissal of the judge to the body which elected or appointed him.

ARTICLE 104. DISMISSAL OF JUDGES IN CASE OF VIOLATION OF THE REQUIREMENTS FOR THE INCOMPATIBILITY

1. The judge shall be dismissed in case of violation of the requirements for the incompatibility under the proposal of the High Council of Justice submitted to the body that elected or appointed the judge in the manner prescribed by the Law of Ukraine "On the High Council of Justice".

ARTICLE 105. DISMISSAL OF JUDGES IN CASE OF VIOLATION OF OATH

1. In accordance with paragraph 5 of part five of Article 126 of the Constitution of Ukraine the judge shall be dismissed due to violation of the oath.

2. The facts that prove the violation of oath by the judge should be established by the High Qualifications Commission of Judges of Ukraine or the High Council of Justice.

3. The dismissal of judges based on the violation of oath shall be conducted by the proposal of the High Council of Justice after consideration of the matter at its meeting in accordance with the Law of Ukraine "On the High Council of Justice".

4. Based on the proposal of the High Council of Justice, the President of Ukraine shall issue a decree on dismissal of the judge.

5. Based on the proposal of the High Council of Justice, the Verkhovna Rada of Ukraine shall adopt a resolution on dismissal of the judge.

ARTICLE 106. DISMISSAL OF JUDGES IN CASE OF ENTRY INTO FORCE OF A VERDICT OF GUILTY FOR THE JUDGE

1. The court that adopted the verdict of guilty for the person that is a judge shall immediately notify the High Qualifications Commission of Judges of Ukraine.

2. In the case of entry into force of a verdict of guilty for a person that is a judge, the High Qualifications Commission of Judges of Ukraine shall notify the High Council of Justice, which shall submit a proposal on the dismissal of a judge.

3. The judge for which a court verdict of guilty came into force, shall not be able to continue to exercise his powers and shall cease to have the guarantees of independence and immunity of judges provided by law as well as the right to financial and other support.

ARTICLE 107. DISMISSAL OF JUDGES IN THE CASE OF TERMINATION OF CITIZENSHIP

1. The judge shall be dismissed under the proposal of the High Council of Justice in case of termination of his citizenship under the Law of Ukraine On the Citizenship of Ukraine.

2. As of the termination of citizenship the judge shall not be able to exercise his powers.

ARTICLE 108. DISMISSAL OF JUDGES IN CASE OF RECOGNIZING AS MISSING OR DECLARED AS PRESUMED DEAD

1. The court which adopted a decision on the recognition of a person that is a judge as missing or declared as presumed dead shall immediately notify the High Qualifications Commission of Judges of Ukraine. In the case of entry of this decision into force, the High Qualifications Commission of Judges of Ukraine shall notify the High Council of Justice, which

shall submit a proposal on the dismissal of a judge.

ARTICLE 109. DISMISSAL OF JUDGES FOR RESIGNATION OR VOLUNTARY TERMINATION OF SERVICE

1. The judge, the length of service of which is at least twenty years, as determined in accordance with Article 131 of this Law, shall have the right to submit a resignation.

2. The judge shall have the right, at any period in office, regardless of the motives, to apply for voluntary termination of service.

3. The application for resignation, voluntary termination of service shall be submitted by the judge directly to the High Council of Justice, which within one month as of the date of receipt of the relevant application shall submit it to the body that elected or appointed the judge. In case of the dismissal of a judge as a result of such a submission, the High Council of Justice shall inform the High Qualification Commission of Judges of Ukraine about this.

4. The judge shall exercise his/her powers until the adoption of resolution on his dismissal.

5. The judge dismissed under his/her resignation letter shall retain the justiceship and guarantees of immunity provided for such judges before the resignation.

ARTICLE 112. TERMINATION OF POWERS OF JUDGES

1. The powers of the judge shall terminate in the event of his death.

2. The presence of grounds for termination of powers of the judge shall be reported by the head of the court in which the judge held the position to the High Qualifications Board of Judges of Ukraine. The report shall be annexed with documents which indicate the existence of a reason for the termination of the powers of a judge.

Law of Ukraine " On Ensuring Civil Rights and Freedoms, and the Legal Regime on the Temporarily Occupied Territory of Ukraine "[22] dated April 15, 2014 No. 1207-VII

ARTICLE 1. LEGAL STATUS OF TEMPORARILY OCCUPIED TERRITORY OF UKRAINE

1. Temporarily occupied territory of Ukraine [...] is integral part of the territory of Ukraine to which operation of the Constitution and the laws of Ukraine extends.

2. Start date of temporary occupation is on February 20, 2014.

ARTICLE 5. PROTECTION OF RIGHTS AND FREEDOMS OF MAN AND CITIZEN, CULTURAL HERITAGE IN TEMPORARILY OCCUPIED TERRITORY

[...]

4. Forced automatic acquisition by citizens of Ukraine who live in temporarily occupied territory of citizenship of the Russian Federation is not recognized Ukraine and is not the basis for loss of citizenship of Ukraine.

ARTICLE 9. ILLEGAL BODIES, THEIR OFFICIALS AND EMPLOYEES

1. State and local self-government bodies formed in accordance with the Constitution and laws of Ukraine, their officials and employees in the temporarily occupied territory shall act on the basis, within the powers and in the manner provided for by the Constitution and

22 https://zakon.rada.gov.ua/laws/anot/en/1207-18

laws of Ukraine.

2. Any bodies, their officials and employees in the temporarily occupied territory and their activities are considered illegal if these bodies or persons are created, elected or appointed in a manner not prescribed by law.

3. Any act (decision, document) issued by the authorities and/or persons provided for by the second part of this article is invalid and does not create legal consequences.

ARTICLE 12. LEGAL RESPONSE IN THE TEMPORARILY OCCUPIED TERRITORY

1. Due to the impossibility of administering justice by the courts of the Autonomous Republic of Crimea and the city of Sevastopol in the temporarily occupied territories, to change the territorial jurisdiction of court cases, jurisdictions located in the Autonomous Republic of Crimea and the city of Sevastopol, and to ensure the consideration of:

civil cases under the jurisdiction of local general courts located in the Autonomous Republic of Crimea and the city of Sevastopol - by the local general courts of the city of Kyiv, determined by the Court of Appeal of the city of Kiev;

administrative cases under the jurisdiction of the local general courts as administrative courts located on the territory of the Autonomous Republic of Crimea and the city of Sevastopol - by the local general courts of the city of Kyiv, determined by the Kyiv Administrative Court of Appeal;

civil cases under the jurisdiction of the general courts of appeal located in the Autonomous Republic of Crimea and the city of Sevastopol - by the Court of Appeal of the city of Kyiv;

administrative cases of the District Administrative Court of the Autonomous Republic of Crimea - by the Kyiv Regional Administrative Court; administrative cases of the District Administrative Court of the city of Sevastopol - by the District Administrative Court of the city of Kyivv; Sevastopol Administrative Court of Appeal - Kyiv Administrative Court of Appeal;

economic cases of the Commercial Court of the Autonomous Republic of Crimea - the Commercial Court of the Kyiv region, and economic cases of the Commercial Court of the city of Sevastopol - the Commercial Court of Kyiv, the economic cases of the Sevastopol Economic Court of Appeal - the Kyiv Economic Court of Appeal;

criminal proceedings under the jurisdiction of the local (district, city, district in the cities, city) courts located in the Autonomous Republic of Crimea and the city of Sevastopol - one of the district courts of the city of Kyiv, determined by the Court of Appeal of the city of Kyiv;

cases of administrative offenses under the jurisdiction of local (district, city, district in cities, city) courts located in the Autonomous Republic of Crimea and the city of Sevastopol - by local general courts at the place of detection of an administrative offense;

criminal proceedings under the jurisdiction of the Court of Appeal of the Autonomous Republic of Crimea and the Court of Appeal of the city of Sevastopol, - the Court of Appeal of the city of Kyiv.

Issues related to the powers of an investigating judge in criminal trials at the pre-trial investigation stage and carried out in the Autonomous Republic of Crimea and the city of Sevastopol are considered by the investigating judges of the district courts of the city of Kyiv, determined by the Court of Appeal of the city of Kyiv.

Cases before the court located in the Autonomous Republic of Crimea and the city of Sevastopol consideration of which is not completed, shall be transferred to the courts in accordance with the jurisdiction established by this Law, within ten business days from the date of its entry into force, or from the date of establishment of such jurisdiction.

In the event of damage to the subjects of a foreign state by non-residents, jurisdiction is established at the place of damage, taking into account the jurisdiction rules established by this Law.

2. The jurisdiction of criminal offenses committed in the temporarily occupied territory shall

be determined by the Prosecutor General of Ukraine. The materials of the pre-trial investigation of crimes, criminal proceedings for which are at the stage of pre-trial investigation, must be transferred to the pre-trial investigation authorities determined by the General Prosecutor's Office of Ukraine.

[...]

4. Courts, in accordance with the jurisdiction established by this Law, and in accordance with the requirements of the procedural legislation, carry out the consideration of cases and resolve procedural issues arising after the adoption of a judicial decision.

ARTICLE 16. TRANSFER OF JUDGES

1. Judges who worked in the courts of Ukraine in the Autonomous Republic of Crimea and the city of Sevastopol and who expressed a desire to be relocated due to its temporary occupation by the Russian Federation are guaranteed the right to transfer to the post of judge in a court in another territory of Ukraine.

Decision of the Supreme Council of Justice of Ukraine «On the termination of the work of the courts in connection with a natural disaster, military operations, counter-terrorism measures or other emergency circumstances»[23] dated January 25, 2018 No. 182/0/15-18

On September 30, 2016, the Law of Ukraine "On the Judicial System and the Status of Judges" of June 2, 2016 No. 1402-VIII entered into force.

According to part seven of Article 147 of the said Law, in connection with a natural disaster, military operations, counter-terrorism measures or other extraordinary circumstances, the work of the court may be terminated by decision of the High Council of Justice, which is adopted on the proposal of the President of the Supreme Court.

On December 15, 2017, the Supreme Court began its work.

On January 9, 2018, the Supreme Council of Justice received a submission from the Chairman of the Supreme Court dd. January 2, 2018 No 1/0/2-18 on the termination of the work of courts in the Autonomous Republic of Crimea, Donetsk and Lugansk regions. It follows from the content of the submission that it is introduced in connection with counter-terrorism measures in the territories where the courts are located and in order to ensure the proper transfer of judges to a permanent place of work in other courts of the same level without competition. A list of courts that do not administer justice is attached to the submission.

Considering the above, the High Council of Justice, guided by Article 147 of the Law of Ukraine "On the Judicial System and Status of Judges", Articles 3, 30, 34 of the Law of Ukraine "On the High Council of Justice",

decided:

to terminate the work of local and appeal courts in accordance with the attached list[24].

23 http://www.vru.gov.ua/act/13046

24 The list contains the names of all courts operating in the territory of the Autonomous Republic of Crimea and the city of Sevastopol at the time of occupation (see paragraph 8 of this thematic review)

The Federal Law of the Russian Federation No. 3132-1 of June 26, 1992 "On the Status of Judges in the Russian Federation"[25] (as amended on March 12, 2014)

ARTICLE 1. JUDGES AS HOLDERS OF JUDICIAL POWER

1. Judicial power in the Russian Federation belongs only to the courts, represented by judges and, where stipulated in law, representatives of the people drawn to participation in the administration of justice.

2. Judicial power is autonomous and acts independently of the legislative and the executive powers.

3. In accordance with this Law, judges are persons empowered, in the constitutional manner, to administer justice, who perform their duties on a professional basis.

4. Judges are independent and obey only the Constitution of the Russian Federation and the law. They are not accountable to anybody in their activities regarding the administration of justice.

ARTICLE 2. UNIVERSAL STATUS OF JUDGES

1. All judges of the Russian Federation have the same status. The features of legal status of some categories of judges, including the judges of military courts, are determined by federal laws, and where so stipulated in federal laws – also by the laws of the constituent entities of the Russian Federation.

ARTICLE 3. REQUIREMENTS TO JUDGES

1. Judges must observe the Constitution of the Russian Federation, federal constitutional laws and federal laws at all times. Judges of a constitutional (charter) court of a constituent entity of the Russian Federation, justices of the peace must also observe the constitution (charter) of the constituent entity of the Russian Federation, the laws of the constituent entity of the Russian Federation.

[...]

ARTICLE 4. REQUIREMENTS TO CANDIDATES FOR THE JUDICIAL OFFICE

1. A citizen of the Russian Federation may be a judge, if he/she:

1) has higher legal education;

2) has never suffered conviction, or criminal proceedings against her/him were terminated on exonerative grounds;

3) is not a citizen of a foreign state; does not have a residence permit or another document, confirming the right of a citizen of the Russian Federation to be permanently resident on the territory of a foreign state;

4) has not been recognized by a court as legally incapable or legally impaired;

5) is not registered in a narcological or psychoneurologic dispensary due to alcoholism, drug addiction or substance abuse treatment, treatment for persistent or chronic psychiatric disorders;

6) does not have any other illnesses precluding the exercise of judicial powers.

25 http://www.consultant.ru/document/cons_doc_LAW_648/

2. Other requirements to candidates for the judicial office of the Russian Federation may be stipulated in a federal constitutional law or a federal law.

3. A person suspected or accused of committing a crime cannot be a candidate for the judicial office.

4. The length of service in the field of law, necessary for judicial appointment, includes the time of work:

1) in public positions of the Russian Federation, public positions of constituent entities of the Russian Federation, positions of the state service, municipal positions, positions in the state bodies of the USSR, of union republics of the USSR, of the Russian Soviet Federative Socialist Republic and of the Russian Federation, which existed before the adoption of the Constitution of the Russian Federation, in positions in legal departments of organizations and positions in scientific organizations, if a law degree was required to work in the aforementioned positions;

2) as a professor of law within the framework of professional education programs; as an advocate or notary.

ARTICLE 5. SELECTION OF CANDIDATES FOR THE JUDICIAL OFFICE

1. Candidates for the judicial office are selected on a competition basis.

2. If a vacant position opens in a court, the president of the court informs the corresponding qualification board of judges about that no later than 10 days after the opening of the position.

No later than 10 days after receipt of information from the court president, the qualification board of judges announces the opening of the vacant position in the mass media, indicating the time and place of submission of applications by candidates for the judicial office, as well as the time and place of consideration of the applications.

2.1. Examination commissions tasked with conducting judicial qualification examination (hereinafter referred to as examination commissions) are formed in order to assess whether the candidates for judicial office have the theoretical knowledge, practical skills and abilities in the sphere of application of law, necessary to work as a judge of a court of a given type, system and level.

[...]

3. Any citizen, who has reached the age stipulated in this Law, has higher legal education in "Law" or higher education in "Law" with a "master" degree (qualification), accompanied by a bachelor diploma in "Law", the necessary length of service in the field of law and does not have any illnesses precluding judicial appointment, has a right to pass the judicial qualification examination by submitting an application to the corresponding examination commission. The aforementioned application is accompanied by:

an original of a document identifying the candidate as a citizen of the Russian Federation and its copy;

a questionnaire with the candidate's biographical details;

an original of the document confirming that the candidate has higher legal education in "Law" or higher education in "Law" with a "master" degree (qualification) and a bachelor diploma in "Law", and its copy;

an original of the employment record book or of another document confirming the professional experience of the candidate, certified in the stipulated manner, or its copy;

a document certifying that the candidate has no illnesses precluding judicial appointment.

An examination commission cannot refuse to conduct the judicial qualification examination of a candidate, who has presented the documents and their copies, stipulated in this Item.

4. If the conclusion to recommend a candidate for the judicial office is to be given by the High Qualification Board of Judges of the Russian Federation, the judicial qualification

examination is conducted by the High Examination Commission. If the conclusion to recommend a candidate for the judicial office is to be given by a qualification board of judges of a constituent entity of the Russian Federation, the judicial qualification examination is conducted by the examination commission of that constituent entity of the Russian Federation.

5. Citizens that are not judges and judges that have stayed in retirement for more than three years in a row must pass judicial qualification examination. Citizens, who have both a scientific degree of a candidate of science in law or of a doctor of science in law and an honorary title "Honored Lawyer of the Russian Federation" are exempt from the examination. The results of qualification examination are effective for three years after it is passed, and if a citizen is appointed judge – for the whole length of tenure.

[...]

8.

[...]

A close relative (spouse, parent, child, sibling, grandparent, grandchild, as well as a parent, child or sibling of a spouse) of a president or deputy president of a court cannot be a candidate for judicial office in the same court.

When deciding whether to recommend a citizen for judicial office, the qualification board of judges takes into account the candidate's length of tenure as judge, previous work at enforcement agencies, whether the candidate has state or agency awards, an honorary title "Honored Lawyer of the Russian Federation", a scientific degree of a candidate of science in law or of a doctor of science in law, and, as regards acting judges, also the quality and effectiveness of consideration of cases. If there is more than one candidate for judicial office in a specialized commercial court, the board considers whether the candidates have qualifications corresponding to the court's specialization.

[...]

The decision of the qualification board of judges to give a recommendation may be appealed in court, if the board violated the manner of selection of candidates stipulated in this Law. The decision denying recommendation may be appealed in court both with regard to the violation of the manner of selection of candidates and with regard to the substance of the decision.

9. If the qualification board of judges decides to recommend a candidate for judicial office, the decision is forwarded to the president of the corresponding court within 10 days following its adoption. If the president of the court agrees with the decision, he/she forwards a proposal regarding the appointment of the recommended person as a judge, in the stipulated manner and within 20 days from receipt of the decision.

[...]

ARTICLE 6. VESTING OF JUDICIAL POWERS

1. Judges of the Supreme Court of the Russian Federation are appointed by the Federation Council of the Federal Assembly of the Russian Federation on proposal of the President of the Russian Federation, based on the proposal of the Chief Justice of the Supreme Court of the Russian Federation.

2. Judges of commercial courts of circuits and of specialized commercial courts are appointed by the President of the Russian Federation on proposal of the Chief Justice of the Supreme Court of the Russian Federation, forwarded to the President of the Russian Federation no later than 30 days from receipt of the proposal to appoint the recommended person for judicial office from the president of the corresponding court.

3. Judges of other federal courts of general jurisdiction and of commercial courts are appointed by the President of the Russian Federation on proposal of the Chief Justice of the Supreme Court of the Russian Federation, forwarded to the President of the Russian

Federation no later than 30 days from receipt of the proposal to appoint the recommended person for judicial office from the president of the corresponding court.

4. Judges of military courts are appointed by the President of the Russian Federation on proposal of the Chief Justice of the Supreme Court of the Russian Federation, if there is a positive conclusion of the High Qualification Board of Judges of the Russian Federation. The aforementioned proposal is forwarded to the President of the Russian Federation no later than 30 days from receipt of the proposal to appoint the recommended person for judicial office from the president of the corresponding court.

5. Within two months from receipt of the necessary materials, the President of the Russian Federation either appoints the judges of federal courts, proposes the candidates for judicial office in the Supreme Court of the Russian Federation to the Federation Council of the Federal Assembly of the Russian Federation for appointment or rejects the proposed candidacies, in which regard the Chief Justice of the Supreme Court of the Russian Federation is informed.

6. A candidate for judicial office may be appointed only if there is a positive conclusion of the corresponding qualification board of judges.

A judge may be appointed to a position similar to her/his own at another court of the same level by virtue of an application and in the manner stipulated in this Law. In the same manner, a judge of a federal court may be appointed to a position similar to her/his own at a lower court.

[...]

ARTICLE 8. JUDICIAL OATH

1. A judge elected for office for the first time takes the following oath in solemn ceremony:

"I solemnly swear to perform my duties honestly and conscientiously, to administer justice obeying only the law, to be objective and fair, as the duty of a judge and my conscience require".

2. Judges of the Supreme Court of the Russian Federation take their oaths at an assembly of Judges of the Supreme Court of the Russian Federation. Judges of other courts take their oaths at congresses (conferences) or at assemblies of judges.

3. Judges of federal courts take their oaths in front of the State Flag of the Russian Federation.

Judges of constitutional (charter) courts of constituent entities of the Russian Federation, as well as justices of the peace, take their oaths in front of the State Flag of the Russian Federation and the flag of the constituent entity of the Russian Federation.

ARTICLE 14. TERMINATION OF JUDICIAL POWERS

1. Judicial powers are terminated on the following grounds:

1) the judge submits a written application for retirement;

2) the judge cannot exercise judicial powers due to her/his state of health or for other good reasons;

3) the judge submits a written application for the termination of powers due to transfer to a different job or for other reasons;

4) the judge reaches the age limit for judges or the judge's term of office expires, if such a term was set;

[...]

6) the judge gives up citizenship of the Russian Federation, acquires citizenship of a foreign state or receives a residence permit or another document, confirming the right of

a citizen of the Russian Federation to be permanently resident on the territory of a foreign state;

6.1) the judge, the judge's spouse or minor children violate the prohibition to open and have accounts (deposits), to keep money and valuables in foreign banks located outside the territory of the Russian Federation, to own and (or) use foreign financial instruments;

7) the judge engages in activities incompatible with judicial office;

7.1) the judge is elected President of the Russian Federation, Deputy of the State Duma of the Federal Assembly of the Russian Federation, deputy of a legislative (representative) body of a constituent entity of the Russian Federation, representative body of a municipal entity, head of a municipal entity or an elected local self-government official;

8) a judgment of conviction against the judge or a court decision on compulsory measures of medical nature regarding the judge enters into force;

9) a court decision recognizing the judge as legally incapable or legally impaired enters into force;

10) the judge dies or a court decision pronouncing the judge dead enters into force;

11) the judge refuses to be transferred to another court due to the disestablishment or reorganization of the court or becomes a close relative (spouse, parent, child, sibling, grandparent, grandchild, as well as a parent, child or sibling of a spouse) of a president or deputy president of the same court;

12) the judge commits a disciplinary offence, for which a disciplinary punishment in the form of removal is imposed upon that judge by a qualification board of judges.

2. A judge may be removed on grounds, stipulated in Subitems 1-3, 6-11, 13 of Item 1 of this Article.

[...]

ARTICLE 15. RETIREMENT OF A JUDGE

1. In the sense of this Law, retirement means honorary resignation or honorary removal of a judge from judicial office. A person in retirement retains the title of a judge, the guarantees of personal immunity and membership in the judiciary.

2. Every judge is entitled to retirement of her/his free will, irrespective of age. A judge is recognized as retired or removed into retirement, if her/his powers were terminated on grounds stipulated in Subitems 1, 2, 4, 9 and 11 of Item 1 of Article 14 of this Law. [...]

3. A retired judge or a judge removed into retirement receives a dismissal wage for every full year of tenure, based on the amount of monthly monetary remuneration at the judge's last position, but no less than six amounts of monthly monetary remuneration at the position that the judge is vacating. A judge, who was previously retired or was previously removed into retirement, receives a dismissal wage based only on the length of tenure from the moment of termination of the last retirement.

[...]

6. A judge's retirement is terminated, if:

1) after the judge retires, offences are discovered, which were committed in the exercise of judicial powers and constitute grounds for the imposition of a disciplinary punishment in the form of removal in accordance with Items 1 and 5 of Article 12.1 of this Law, unless the statute of limitations stipulated in Item 6 of Article 12.1 of this Law has expired;

2) the judge does not abide by the prohibitions and restrictions stipulated in Items 3 and 4 of Article 3 of this Law;

3) the judge commits a significant, culpable violation of the provisions of this Law and (or) of the Code of Judicial Ethics, incompatible with the distinguished title of a judge, discrediting the honor and dignity of the judge and diminishing the authority of the judiciary;

4) the judge engages in activities incompatible with the status of a judge;

5) a judgment of conviction against the judge enters into force;

6) the judge dies or a court decision pronouncing the judge dead enters into force.

7. Where Article 13 of this Law applies, the decision on termination or suspension of a judge's retirement is adopted by the corresponding qualification board of judges, competent at the previous workplace or at the permanent place of residence of the retired judge, on its own initiative or on proposal of a body of the judiciary or of the president of the court, competent at the previous workplace of the retired judge. The decision of the qualification board of judges may be appealed by the judge in the manner stipulated in Federal Law No. 30 of 14 March 2002 "On Bodies of the Judiciary in the Russian Federation".

8. A judge's retirement is also terminated in case of repeated appointment (election) as judge, except when a retired judge is appointed (elected) judge of a constitutional (charter) court of a constituent entity of the Russian Federation. [...]

The Federal Constitutional Law of June 23, 1999 No. 1-FKZ "On Military Courts of the Russian Federation"[26] (as amended on March 12, 2014):

Chapter III. STATUS OF JUDGES OF MILITARY COURTS

ARTICLE 26. PECULIARITIES OF THE STATUS OF JUDGES OF MILITARY COURTS AND JUDGES OF THE MILITARY COLLEGIUM OF THE SUPREME COURT OF THE RUSSIAN FEDERATION

1. The status of judges of military courts and judges of the Military Collegium of the Supreme Court is determined by the Constitution of the Russian Federation, the Federal Constitutional Law "On Judicial System of the Russian Federation", the Law of the Russian Federation of June 26, 1992 No. 3132-I "On the Status of Judges in the Russian Federation"[...], this Federal Constitutional Law, other federal constitutional laws and other federal laws.

ARTICLE 27. REQUIREMENTS TO CANDIDATES FOR THE JUDICIAL OFFICE OF A MILITARY COURT

1. A citizen of the Russian Federation who meets the requirements for candidates for judicial office stipulated by the Law of the Russian Federation "On the Status of Judges in the Russian Federation" and receives a positive conclusion of the High Qualification Board of Judges of Judges of the Russian Federation may be a judge of a military court.

2. The preferential right to be appointed to judicial office of a military court shall be vested in a serviceman in the officer rank, as well as a citizen in the officer rank and who is in the reserve or who is retired.

26 https://www.consultant.ru/document/cons_doc_LAW_23479/

The Federal Constitutional Law No. 6-FKZ of 21 March 2014 "On the Accession of the Republic of Crimea to the Russian Federation and the Formation of New Constituent Entities in the Russian Federation – the Republic of Crimea and the Federal City of Sevastopol"[27] (as amended on December 25, 2018)

Came into effect from the moment of signing the "Agreement between the Russian Federation and the Republic of Crimea on the accession to the Russian Federation of the Republic of Crimea and the formation of new constituent entities in the Russian Federation." This Agreement has been signed on March 18, 2014. Article 10 of the Agreement stipulates that this Agreement is transitionally applied from the date of signing and comes into effect from the date of ratification. Ratified on March 21, 2014 by the Federal Law No. 36-FZ.

ARTICLE 1. GROUNDS AND TERM FOR ADMISSION OF THE REPUBLIC OF CRIMEA TO THE RUSSIAN FEDERATION

[...]

3. The Republic of Crimea is considered to have acceded to the Russian Federation from the date of signing the Agreement between the Russian Federation and the Republic of Crimea on the accession of the Republic of Crimea to the Russian Federation and the formation of new constituent entities in the Russian Federation.

ARTICLE 4. RECOGNITION OF CITIZENSHIP OF THE RUSSIAN FEDERATION BY CITIZENS OF UKRAINE AND STATELESS PERSONS PERMANENTLY RESIDING IN THE TERRITORY OF THE REPUBLIC OF CRIMEA OR IN THE TERRITORY OF THE FEDERAL CITY OF SEVASTOPOL

1. From the day of the accession of the Republic of Crimea in the Russian Federation and the formation of new constituent entities in the Russian Federation, Ukrainian citizens and stateless citizens permanently residing in the territory of the Republic of Crimea and in the Federal City of Sevastopol are recognized as Russian citizens apart from people who within one month from this day express their wish to retain their current citizenship for themselves and their underage children or to remain persons without citizenship.

[...]

3. The restrictions on the filling of state and municipal offices, state and municipal service offices stipulated by the legislation of the Russian Federation with respect to citizens of the Russian Federation who have citizenship of a foreign state or a residence permit or other document confirming the right to permanent residence of a citizen of the Russian Federation in the territory of a foreign state, shall be in effect in the territory of the Republic of Crimea and the Federal City of Sevastopol one month from the day of the accession of the Republic of Crimea to the Russian Federation and the formation of new constituent entities in the Russian Federation.

4. A person recognized as a citizen of the Russian Federation in accordance with item 1 of this Article and received an identity document of a citizen of the Russian Federation shall be recognized on the territory of the Russian Federation as a citizen who does not have the citizenship of a foreign state, if a person submits a declaration of unwillingness to retain citizenship of a foreign state.

[...]

(item 4 was introduced by the Federal Constitutional Law of December 29, 2014 No. 19-FKZ)

27 http://www.consultant.ru/document/cons_doc_LAW_160618/

ARTICLE 6. TRANSITIONAL PERIOD

From the day that the Republic of Crimea accedes to the Russian Federation and new constituent entities are formed and until January 1, 2015, a transitional period is in effect for settling issues of integrating the new federal constituent entities into economic, financial, credit and legal systems of the Russian Federation, and system of government agencies of the Russian Federation.

ARTICLE 9. CREATION OF COURTS OF THE RUSSIAN FEDERATION IN THE TERRITORIES OF THE REPUBLIC OF CRIMEA AND THE FEDERAL CITY SEVASTOPOL. ADMINISTRATION OF JUSTICE DURING TRANSITIONAL PERIOD

1. During transitional period in the territories of the Republic of Crimea and the Federal City of Sevastopol, considering their administrative-territorial division stipulated respectively by legislative (representative) state authority of the Republic of Crimea and legislative (representative) state authority of the Federal City of Sevastopol, courts of the Russian Federation are created (federal courts) in accordance with the legislation on judicial system of the Russian Federation .

2. Citizens holding judicial offices of courts operating in the territories of the Republic of Crimea and the Federal City of Sevastopol on the day of accession of the Republic of Crimea to the Russian Federation and formation of new constituent entities in the Russian Federation have preferential right to be appointed to judicial offices in courts of the Russian Federation created in these territories, if they are citizens of the Russian Federation, and also if they meet other requirements to candidates for the judicial office stipulated in the The Federal Law of the Russian Federation "On the Status of Judges in the Russian Federation". Competition for the judicial office in the aforementioned courts is conducted by the High Qualification Board of Judges of the Russian Federation.

3. In the territories of the Republic of Crimea and the Federal City of Sevastopol, judicial districts and the offices of magistrate judges can be created upon the initiative of legislative (representative) state authority of the Republic of Crimea and legislative (representative) state authority of the Federal City of Sevastopol, approved by the Supreme Court of the Russian Federation, in accordance with the legislation of the Russian Federation.

4. The decision on the day of the commencement of operation of the federal courts in the territories of the Republic of Crimea and the Federal City of Sevastopol is adopted by the Plenum of the Supreme Court of the Russian Federation and is officially brought out.

5. Prior to the creation of courts of the Russian Federation in the territories of the Republic of Crimea and the Federal City of Sevastopol, justice on behalf of the Russian Federation in these territories is administered by the courts acting on the day of the accession of the Republic of Crimea to the Russian Federation and the formation of new constituent entities in the Russian Federation. Persons holding the positions of judges of these courts continue to administer justice until the creation and commencement of activities of the courts of the Russian Federation in the indicated territories, if they have citizenship of the Russian Federation.

6. The highest judicial instances in relation to the decisions and sentences of the courts referred to in item 5 of this Article are the courts of appeal operating in the territories of the Republic of Crimea and the Federal City of Sevastopol on the day of the accession of the Republic of Crimea in the Russian Federation and formation of new constituent entities in the Russian Federation, and the Supreme Court of the Russian Federation.

[...]

ARTICLE 23. EFFECT OF LEGISLATIVE AND OTHER REGULATORY LEGAL ACTS OF THE RUSSIAN FEDERATION IN THE TERRITORIES OF THE REPUBLIC OF CRIMEA AND THE FEDERAL CITY OF SEVASTOPOL

1. Legislative and other regulatory legal acts of the Russian Federation shall be in effect in the territories of the Republic of Crimea and the Federal City of Sevastopol from the date of the accession of the Republic of Crimea to the Russian Federation and the formation of new constituent entities in the Russian Federation, unless other is stipulated by this Federal Constitutional Law.

The Federal Law No. 91-FZ, "On Application of the Provisions of the Criminal Code of the Russian Federation and Criminal Procedure Code of the Russian Federation in the Territories of the Republic of Crimea and the Federal City of Sevastopol"[28]

Adopted by the State Duma on April 18, 2014

Approved by the Federation Council on April 29, 2014

ARTICLE 1

Criminal proceedings in the territories of the Republic of Crimea and the Federal City of Sevastopol are carried out in accordance with the rules stipulated by the criminal-procedural legislation of the Russian Federation, considering the provisions of the Federal Constitutional Law No. 6-FKZ of 21 March 2014 "On the Accession of the Republic of Crimea to the Russian Federation and the Formation of New Constituent Entities in the Russian Federation - the Republic of Crimea and the Federal City of Sevastopol" and this Federal Law.

ARTICLE 2

Criminality and punishability of acts, committed in the territories of the Republic of Crimea and the Federal City of Sevastopol before March 18, 2014, are determined by the criminal legislation of the Russian Federation. Worsening of the position of a person shall be prohibited.

ARTICLE 3

1. Case materials on cases in which the pre-trial investigation of acts, containing signs of the crime, has not been completed as of March 18, 2014 (regardless of the citizenship of the person suspected of having committed a crime) shall be transferred to the prosecutor to determine the type of criminal prosecution and the jurisdiction in accordance with the Criminal-Procedural Code of the Russian Federation.

2. Based on the results of the examination of the case materials referred to in item 1 of this Article, the prosecutor, in accordance with paragraph 12 of item 2 of Article 37 of the Criminal-Procedural Code of the Russian Federation, issues a reasoned decision, which, together with the case materials received, is sent to the appropriate pre-trial investigation body or inquiry body for decision, stipulated by the Criminal-Procedural Code of the Russian Federation. In accordance with item 4 of Article 20 of the Criminal-Procedural Code of the Russian Federation, the prosecutor sends the materials of the criminal case of private prosecution to the head of the investigation body, investigator, and inquirer for making a decision in accordance with the criminal-procedural legislation of the Russian Federation.

28 https://rg.ru/2014/05/07/primenenie-dok.html

3. If a criminal case is instituted in the manner stipulated by Chapter 20 of the Criminal-Procedural Code of the Russian Federation, the evidence obtained earlier shall be of the same legal force as if it had been obtained in accordance with the criminal-procedural legislation of the Russian Federation. The assessment and verification of such evidence is carried out in accordance with the requirements stipulated by Articles 87 and 88 of the Criminal-Procedural Code of the Russian Federation

4. If the action subjected to pre-trial investigation does not constitute a crime in accordance with the Criminal Code of the Russian Federation, and if there are no grounds for initiating a criminal case, a decision shall be made in accordance with Article 148 of the Criminal-Procedural Code of the Russian Federation.

ARTICLE 4

The decision to terminate criminal case on the grounds of the absence of the event of a crime, the absence of the corpus delicti in the action or in connection with the death of a suspect (accused), made before March 18, 2014, has the force of a decision of refusal to institute criminal case. Appeal against such decision shall be carried out in the manner stipulated by the Criminal-Procedural Code of the Russian Federation, considering the provisions of item 19 of Article 9 of the Federal Constitutional Law No. 6-FKZ of 21 March 2014 "On the Accession of the Republic of Crimea to the Russian Federation and the Formation of New Constituent Entities in the Russian Federation - the Republic of Crimea and the Federal City of Sevastopol".

ARTICLE 5

The term of pre-trial investigation when initiating a criminal case on the ground of the materials of the pre-trial investigation shall be calculated from the moment the criminal case was instituted in the manner stipulated by Articles 162, 223 and 226[6] of the Criminal-Procedural Code of the Russian Federation. The time of the detention of a person during pre-trial investigation of a crime, was arrested, or was under house arrest until March 18, 2014, shall be included in the term of persons' detention or in the term of house arrest during pre-trial investigation in accordance with Articles 107 and 109 of the Code of Criminal Procedure of the Russian Federation.

ARTICLE 6

1. The materials of criminal proceedings for which no trial has been scheduled before March 18, 2014 shall be returned by the court to the prosecutor.

2. If the trial on the criminal case was started before March 18, 2014, it shall continue in the manner stipulated by the Criminal-Procedural Code of the Russian Federation, in the absence of grounds for returning criminal case to the prosecutor in accordance with Article 237 of the Criminal-Procedural Code of the Russian Federation. At the request of the prosecutor, actions of defendant shall be subject to re-qualification by the court in accordance with the Criminal Code of the Russian Federation, which does not worsen the position of defendant. In this case, the punishment shall be imposed considering the requirements of Article 10 of the Criminal Code of the Russian Federation. Trial in first instance courts and in courts of appeal in the criminal case, subjected to jurisdiction of courts, referred to in item 3 of Article 31 of the Criminal-Procedural Code of the Russian Federation, shall be held by the court proceeding the case.

[...]

ARTICLE 7

The provision of paragraph 2 of item 2 of Article 30 of the Code of Criminal Procedure of the Russian Federation shall apply in the territories of the Republic of Crimea and the Federal City of Sevastopol from January 1, 2018.

ARTICLE 8

1. Court decisions which have become final, adopted in the territories of the Republic of Crimea and the Federal City of Sevastopol before March 18, 2014, have the same legal force (including for the purpose of executing criminal sentences) as court decisions adopted in the territory of the Russian Federation.

2. Appeal procedure against court decisions adopted in the territories of the Republic of Crimea and the city of Sevastopol until March 18, 2014 shall be carried out in the manner and terms stipulated by the Criminal-Procedural Code of the Russian Federation, considering the provisions of item 19 of Article 9 of the Federal Constitutional Law No. 6-FKZ of 21 March 2014 "On the Accession of the Republic of Crimea to the Russian Federation and the Formation of New Constituent Entities in the Russian Federation - the Republic of Crimea and the Federal City of Sevastopol".

3. Court decisions, which have become final, adopted on criminal cases in the territory of the Republic of Crimea and the Federal City of Sevastopol before March 18, 2014 are recognized in the part regarding their execution on the territory of the Russian Federation, in accordance with the legislation of the Russian Federation.

4. If the Criminal Code of the Russian Federation mitigates punishment, or in any other way improves the position of convicted person, court decision shall be brought into compliance with the legislation of the Russian Federation in the manner stipulated by Articles 397 and 399 of the Criminal-Procedural Code of the Russian Federation upon request of convicted person or representation of a prosecutor, institution or body executing the punishment.

ARTICLE 10

The effect of this Federal Law extends to legal relations arising in connection with acts committed in the territories of the Republic of Crimea and the Federal City of Sevastopol before March 18, 2014.

The Federal Law of March 21, 2014 No. 36-FZ "On Ratification of the Agreement between the Russian Federation and the Republic of Crimea on the Accession of the Republic of Crimea to the Russian Federation and the Formation of New Constituent Entities in the Russian Federation"[29]

Adopted by the State Duma on March 20, 2014

Approved by the Federation Council on March 21, 2014

Ratify the Agreement between the Russian Federation and the Republic of Crimea on the accession of the Republic of Crimea to the Russian Federation and the formation of new constituent entities in the Russian Federation, signed in Moscow on March 18, 2014.

29 https://rg.ru/2014/03/22/krim-site-dok.html

Federal Law No. 154-FZ of June 23, 2014 "On the Establishment of Courts of the Russian Federation in the Territory of the Republic of Crimea and the Federal City of Sevastopol and on Amending Certain Legislative Acts of the Russian Federation"[30]

ARTICLE 1

In accordance with Article 9 of the Federal Constitutional Law of March 21, 2014 No. 6-FKZ "On the Accession of the Republic of Crimea to the Russian Federation and the Formation of New Constituent Entities in the Russian federation — the Republic of Crimea and the Federal City of Sevastopol" [...] and Article 17 of the Federal Constitutional Law of December 31, 1996 N 1-FKZ "On the Judicial System of the Russian Federation":

create[31]*:*

[...]

ARTICLE 2

The decision on the day when the courts established in accordance with Section 1 of this Federal Law commence operation is taken by the Plenum of the Supreme Court of the Russian Federation after the appointment of two-thirds of the established number of judges of the respective court.

ARTICLE 3

1. Cases and complaints accepted for proceeding by the general courts operating in the territories of the Republic of Crimea and the federal city of Sevastopol on the day of the accession of new subjects to the Russian Federation of the Republic of Crimea and the formation of new entities in the Russian Federation, and not considered on this day, are submitted for consideration in the established manner to the federal courts of general jurisdiction created in accordance with Article 1 of this Federal Law, taking into account their territorial jurisdiction and the provisions of Article 9 of the Federal Constitutional law "On the Accession of the Republic of Crimea to the Russian Federation and the Formation of New Constituent Entities in the Russian Federation — the Republic of Crimea and the Federal City of Sevastopol".

2. Cases accepted for proceeding by economic courts of first instance operating in the territories of the Republic of Crimea and the federal city of Sevastopol on the day of the accession of the Republic of Crimea to the Russian Federation and the formation of new constituent entities, and not considered on this day, are submitted for consideration in the established manner to the Arbitration Court of the Republic of Crimea and the Arbitration Court of the city of Sevastopol, created in accordance with Article 1 of this Federal Law, taking into account their territorial jurisdiction and the provisions of Article 9 of the Federal Constitutional Law «On the Accession of the Republic of Crimea to the Russian Federation and the Formation of New Constituent Entities in the Russian Federation — the Republic of Crimea and the Federal City of Sevastopol".

3. Appeals accepted for proceeding by appellate economic courts operating in the territories of the Republic of Crimea and the federal city of Sevastopol on the day of the accession of the Republic of Crimea to the Russian Federation and the formation of new constituent entities, and not considered on this day, are submitted for consideration in the

30 https://rg.ru/2014/06/25/sud-krim-dok.html Принят Государственной Думой 11 июня 2014 года. Одобрен Советом Федерации 18 июня 2014 года.

31 The list of courts is given in section 11 of this thematic review on pp. 61-64.

established manner to the Twenty-First Arbitration Court of Appeal.

4. Cases accepted for proceeding by administrative courts of first instance operating in the territories of the Republic of Crimea and the federal city of Sevastopol on the day of the accession of the Republic of Crimea to the Russian Federation and the formation of new constituent entities, and not considered on this day, in accordance with the rules for delimiting jurisdiction established by the procedural legislation of the Russian Federation are submitted for consideration in the established manner to the courts of general jurisdiction, as well as to the Arbitration court of the Republic of Crimea and the Arbitration Court of the city of Sevastopol, created in accordance with Article 1 of this Federal Law, taking into account their subject and territorial jurisdiction and the provisions of Article 9 of the Federal Constitutional Law «On the Accession of the Republic of Crimea to the Russian Federation and the Formation of New Constituent Entities in the Russian Federation — the Republic of Crimea and the Federal City of Sevastopol".

5. Appeals accepted by administrative courts of appeal operating in the territories of the Republic of Crimea and the federal city of Sevastopol on the day of the accession of the Republic of Crimea to the Russian Federation and the formation of new constituent entities, and not examined on this day, in accordance with the rules for delimiting jurisdiction established by the procedural legislation of the Russian Federation are submitted for consideration in the established manner to the Supreme Court of the Republic of Crimea and the Sevastopol City Court, created in accordance with Article 1 of this Federal Law, taking into account their territorial jurisdiction and the provisions of Article 9 of the Federal Constitutional Law «On the Accession of the Republic of Crimea to the Russian Federation and the Formation of New Constituent Entities in the Russian Federation — the Republic of Crimea and the Federal City of Sevastopol", or to the Twenty-first Arbitration Court of Appeal.

6. Until the creation of judicial sub-districts and positions of the magistrate judges in the Republic of Crimea and the federal city of Sevastopol, as well as until the appointment (election) magistrate judges, cases and complaints referred by federal laws to the jurisdiction of magistrate judges are considered by district (city) courts established in accordance with Article 1 of this Federal Law, subject to their territorial jurisdiction.

7. In order to consider a case, complaint, representation or protest submitted to federal courts in accordance with parts 1 to 5 of this article, the composition of the court shall be composed of the judges who examined them immediately prior to such a submission, and the trial continues from the stage at which it was interrupted. If at least one of these judges cannot participate in the continuation of the proceedings, a new composition of the court is formed and consideration begins from the very beginning.

ARTICLE 6

1. This Federal Law shall enter into force on the day of its official publication, with the exception of clause 2 of Article 5 of this Federal Law.

2. Clause 2 of Article 5 of this Federal Law shall enter into force on January 1, 2015.

Resolution of the Plenum of the Supreme Court of the Russian Federation of December 23, 2014 No. 21 "On the Day of the Commencement of the Operation of Federal Courts in the Territories of the Republic of Crimea and the Federal City of Sevastopol"[32]

ITEM 1

December 26, 2014 shall be considered as the day of the commencement of operation of the Supreme Court of the Republic of Crimea, the Arbitration Court of the Republic of Crimea, the district and city courts in the Republic of Crimea, the Crimean Garrison Military Court, the Sevastopol City Court, the Arbitration Court of Sevastopol, the district courts in Sevastopol, the Sevastopol Garrison Military Court, the twenty-first Arbitration Court of Appeal.

32 https://rg.ru/2014/12/25/plenum-vs-dok.html

The Constitution of the Republic of Crimea[33]

ARTICLE 86

1. Justice in the Republic of Crimea shall be administered only by court.

2. Federal courts and magistrate courts shall operate in the Republic of Crimea. Jurisdiction, formation and operation procedures of federal courts are determined by legislation of the Russian Federation.

3. Court districts and offices for magistrate judges in the Republic of Crimea may be created on the initiative of the State Council of the Republic of Crimea, approved by the Supreme Court of the Russian Federation, in accordance with the legislation of the Russian Federation and the legislation of the Republic of Crimea.

4. The status, jurisdiction, procedure and guarantees for judges are stipulated by the federal law, and regarding magistrate judges - also by the law of the Republic of Crimea.

The Law of the Republic of Crimea of September 1, 2014 No. 61-ZRK "On Magistrate Judges of the Republic of Crimea" [34]

ARTICLE 1. MAGISTRATE JUDGES OF THE REPUBLIC OF CRIMEA

1. Magistrate judges of the Republic of Crimea (hereinafter referred to as magistrate judges) are judges of the general jurisdiction of the Republic of Crimea and belong to the unified judicial system of the Russian Federation. Authority, procedure for the operation of magistrate judges and the procedure for creating the positions of magistrate judges shall be established by the Constitution of the Russian Federation, the Federal Constitutional Law "On the Judicial System of the Russian Federation", other federal constitutional laws, the Federal Law "On Magistrate judges in the Russian Federation", other federal laws, and appointment and operating procedures of magistrate judges shall be also established by the Constitution of the Republic of Crimea and this Law.

2. Magistrate judges administer justice in the name of the Russian Federation. The procedure for administering justice by magistrate judges is established by federal law.

[...]

ARTICLE 2. GUARANTEES OF THE STATUS OF MAGISTRATE JUDGES

Magistrate judges and their family members shall be using guarantees of judicial independence, judicial immunity, as well as material and social support, established by the Law of the Russian Federation "On the Status of Judges in the Russian Federation" and other federal laws.

ARTICLE 3. COMPETENCE OF A MAGISTRATE JUDGE

The magistrate judge shall hear in the first instance:

1) criminal cases of crimes, the maximum punishment for perpetration of which does not

33 https://rk.gov.ru/ru/structure/39 Adopted by the State Council of the Republic of Crimea on April 11, 2014.

34 http://crimea.gov.ru/content/uploads/files/vedomosti/2014_3_1.pdf Adopted by the State Council of the Republic of Crimea on August 8, 2014.

exceed three years of imprisonment, under its jurisdiction in accordance with item 1 of Article 31 of the Criminal-Procedural Code of the Russian Federation;

2) cases of the issuance of a court order;

3) divorce cases if there is no dispute regarding children between spouses;

4) cases of the division of jointly acquired property between spouses if the price of the claim is not exceeding fifty thousand rubles;

5) other matters arising from family law relations, with the exception of cases of challenging paternity (maternity), establishment of paternity, deprivation of parental rights, restriction of parental rights, adoption of a child, other cases of disputes regarding children and annulment of marriage; 6) cases of property disputes, with the exception of cases of inheritance of property and cases arising from relations on creation and use of the results of intellectual activity, if the price of the claim is not exceeding fifty thousand rubles;

6) cases of determination of the procedure for the use of property;

7) cases on administrative offences attributed to the competence of the magistrate judge by the Code on Administrative Offenses of the Russian Federation and laws of the Republic of Crimea.

[...]

ARTICLE 5. REQUIREMENTS FOR MAGISTRATE JUDGES AND CANDIDATES FOR THE POSITION OF MAGISTRATE JUDGE

Magistrate judges and candidates for the position of magistrate judge shall be presented with requirements which, in accordance with the Law of the Russian Federation "On the Status of Judges in the Russian Federation", are presented to judges and candidates for the position of judge, considering the provisions of the Federal Law "On Magistrate judges in the Russian Federation".

ARTICLE 6. SELECTION OF CANDIDATES FOR THE POSITION OF MAGISTRATE JUDGE

1. The selection of candidates for the position of magistrate judge shall be carried out on a competitive basis in the manner stipulated in federal laws.

[...]

3. The Administration of the Judicial Department in the Republic of Crimea organizes and provides for the work of the examination committee on conducting qualification examination for the position of magistrate judge.

4. The examination commission of the Republic of Crimea conducts qualification exam for a position of magistrate judge.

[...]

ARTICLE 7. PROCEDURE FOR THE APPOINTMENT OF A MAGISTRATE JUDGE

1. A candidate for the position of magistrate judge, who successfully passed qualification exam, received the recommendation of the qualification board of judges of the Republic of Crimea, may be appointed to the position by the State Council of the Republic of Crimea upon recommendation of the chairman of the Supreme Court of the Republic of Crimea.

[...]

ARTICLE 8. JUDICIAL OATH

A magistrate judge, elected for position for the first time, takes the oath in the manner stipulated in Article 8 of the Law of the Russian Federation "On the Status of Judges in the Russian Federation".

ARTICLE 10. TERM OF THE OFFICE OF A MAGISTRATE JUDGE

1. The magistrate judge shall be appointed for the first time for a term of five years. After the expiration of this period, the person holding the position of magistrate judge shall have the right to nominate himself again for appointment to this position.

2. In case of reappointment and subsequent appointments to the position of magistrate judge, the magistrate judge shall be appointed for a term of five years. If, within the specified period, the magistrate judge reaches the age limit for tenure, he is appointed to the position of magistrate judge for a period until he reaches the age limit for tenure - 70 years.

ARTICLE 11. TERMINATION, SUSPENSION OF POWERS OF A MAGISTRATE JUDGE AND REPLACEMENT OF A TEMPORARILY ABSENT MAGISTRATE JUDGE

1. The powers of magistrate judge shall be terminated in the cases and manner stipulated in the Law of the Russian Federation "On the Status of Judges in the Russian Federation", with the consideration of requirements of this article.

[...]

3. The powers of magistrate judge may be suspended by a decision of the qualification board of judges of the Republic of Crimea in the cases and manner stipulated in the Law of the Russian Federation "On the Status of Judges in the Russian Federation".

[...]

ARTICLE 15. SYMBOLS OF STATE POWER OF A MAGISTRATE JUDGE

1. The State flag of the Russian Federation and the image of the State Emblem of the Russian Federation as well as the State flag of the Republic of Crimea and the image of the State Emblem of the Republic of Crimea shall be placed in the courtroom of magistrate judges in the manner established by federal constitutional laws of the Russian Federation, laws of the Republic of Crimea and other regulatory legal acts of the Russian Federation and the Republic of Crimea.

[...]

The Law of the Republic of Crimea of October 30, 2015 No. 162-ZRK/2015 "On the Creation of Judicial Sub-districts and Positions of the Magistrate Judges in the Republic of Crimea"[35]

(As amended by the Law of the Republic of Crimea dated 09.01.2018 No. 458-ZRK/2018 and the Law of the Republic of Crimea dated March 14, 2018 No. 476-ZRK/2018)[36]

ARTICLE 1

In accordance with the Article 4 of the Federal Law of December 17, 1998 No. 188-FZ "On

35 Adopted by the State Council of the Republic of Crimea on October 22, 2014. https://rk.gov.ru/ru/document/show/10954

36 https://rk.gov.ru/ru/document/show/11253 https://rk.gov.ru/ru/document/show/11783

Magistrate Judges in the Russian Federation", the Federal Law of December 29, 1999 No. 218-FZ "On the Total Number of Magistrate Judges and the Number of Judicial Sub-districts in the Constituent Entities of the Russian Federation", item 3 of Article 86 of the Constitution of the Republic of Crimea, items 1 and 4 of Article 4 of the Law of the Republic of Crimea of September 1, 2014 No. 61-ZRK "On Magistrate Judges of the Republic of Crimea",100 magistrates together with the corresponding number of magistrate judges shall be created within judicial districts of the administrative-territorial units of the Republic of Crimea:

1) Zheleznodorozhnyi judicial district of Simferopol city (Zheleznodorozhny district of Simferopol city circuit): 6 positions of magistrate judges and 6 judicial sub-districts N° 1, N° 2, N° 3, N° 4, N° 5, N° 6;

2) Kievsky judicial district of Simferopol city (Kievsky district of Simferopol city circuit): 9 positions of magistrate judges 9 judicial sub-districts N° 7, N° 8, N° 9, N° 10, N° 11, N° 12, N° 13, N° 14, N° 15;

3) Tsentralnyi judicial district of Simferopol city (Tsentralnyi district of Simferopol city circuit): 6 positions of magistrate judges and 6 judicial sub-districts N° 16, N° 17, N° 18, N° 19, N° 20, N° 21;

4) Alushtinskiy judicial district (city circuit Alushta): 3 positions of magistrate judges and 3 judicial sub-districts N° 22, N° 23, N° 24;

5) Armianskiy judicial district (city circuit Armiansk): 1 position of magistrate judge and 1 judicial sub-district N° 25;

6) Bakhchisaraiskiy judicial district (Bakhchisaraiskiy municipal region): 4 positions of magistrate judges and 4 judicial sub-districts N° 26, N° 27, N° 28, N° 29;

7) Bielogorskiy judicial district (Bielogorskiy municipal region): 3 positions of magistrate judges and 3 judicial sub-districts N° 30, N° 31, N° 32;

8) Dzhankoi judicial district (Dzhankoi municipal region and city circuit Dzhankoi): 5 positions of magistrate judges and 5 judicial sub-districts N° 33, N° 34, N° 35, N° 36, N° 37;

9) Yevpatoriiskiy judicial district (city circuit Yevpatoria): 6 positions of magistrate judges and 6 judicial sub-districts N° 38, N° 39, N° 40, N° 41, N° 42, N° 43;

10) Kerchenskiy judicial district (city circuit Kerch): 8 positions of magistrate judges and 8 judicial sub-districts N° 44, N° 45, N° 46, N° 47, N° 48, N° 49, N° 50, N° 51;

11) Kirovskiy judicial district (Kirovskiy municipal region): 2 positions of magistrate judges and 2 judicial sub-districts N° 52, N° 53;

12) Krasnogvardeisky judicial district (Krasnogvardeisky municipal region): 4 positions of magistrate judges and 4 judicial sub-districts N° 54, N° 55, N° 56, N° 57;

13) Krasnoperekopsky judicial district (Krasnoperekopsky municipal region and city circuit Krasnoperekopsk): 3 positions of magistrate judges and 3 judicial sub-districts N° 58, N° 59, N° 60;

14) Leninsky judicial district (Leninsky municipal region): 3 positions of magistrate judges and 3 judicial sub-districts N° 61, N° 62, N° 63;

15) Nizhnegorsky judicial district (Nizhnegorsky municipal region): 2 positions of magistrate judges and 2 judicial sub-districts N° 64, N° 65;

16) Pervomaisky judicial district (Pervomaisky municipal region): 2 positions of magistrate judges and 2 judicial sub-districts N° 66, N° 67;

17) Razdolnenskiy judicial district (Razdolnenskiy municipal region): 2 positions of magistrate judges and 2 judicial sub-districts № 68, № 69;

18) Saksky judicial district (Saksky municipal region and city circuit Saki): 5 positions of magistrate judges and 5 judicial sub-districts № 70, № 71, № 72, № 73, № 74;

19) Simferopolsky judicial district (Simferopolsky municipal region): 8 positions of magistrate judges and 5 judicial sub-districts № 75, № 76, № 77, № 78, № 79, № 80, № 81, № 82;

20) Sovetsky judicial district (Sovetsky municipal region): 2 positions of magistrate judges and 2 judicial sub-districts № 83, № 84;

21) Sudaksky judicial district (city circuit Sudak): 2 positions of magistrate judges and 2 judicial sub-districts № 85, № 86;

22) Feodosiisky judicial district (city circuit Feodosia): 5 positions of magistrate judges and 5 judicial sub-districts № 87, № 88, № 89, № 90, № 91;

23) Chernomorsky judicial district (Chernomorsky municipal region): 2 positions of magistrate judges and 2 judicial sub-districts № 92, № 93;

24) Yaltinsky judicial district (city circuit Yalta): 7 positions of magistrate judges and 7 judicial sub-districts № 94, № 95, № 96, № 97, № 98, № 99, № 100.

[...]

Charter of the city of Sevastopol[37]

ARTICLE 36

1. Judicial sub-districts and positions of magistrate judges may be created in the city of Sevastopol under the initiative of the Legislative Assembly of the city of Sevastopol, approved by the Supreme Court of the Russian Federation, in accordance with the legislation of the Russian Federation and the legislation of the city of Sevastopol.

2. The status, authorities, procedure and guarantees of the operation of magistrate judges are stipulated by federal law, as well as by the law of the city of Sevastopol.

The Law of the city of Sevastopol of July 25, 2014 No. 50-ZS "On the Magistrate Judges of the City of Sevastopol"[38]

With amendments and additions adopted through:

the Laws No. 142-ZS of 05/15/2015, No. 257-ZS of July 18, 2016, No. 258-ZS of July 18, 2016.

ARTICLE 1. MAGISTRATE JUDGES OF THE CITY OF SEVASTOPOL

1. Magistrate judges of the city of Sevastopol (hereinafter -magistrate judges) are judges of general jurisdiction of the constituent entities of the Russian Federation and are part of the unified judicial system of the Russian Federation. [...]

2. Magistrate judges administer justice in the name of the Russian Federation. The

37 https://sev.gov.ru/docs/214/511/ Adopted by the Legislative Assembly of the city of Sevastopol on April 11, 2014.

38 https://sevzakon.ru/view/laws/bank/iyul_2014/o_mirovyh_sudyah_goroda_sevastopolya/tekst_zakona/ Adopted by the Legislative Assembly of the city of Sevastopol on July 22, 2014. This law has lost its force with the adoption of a new edition - the Law of the city of Sevastopol of January 29, 2019 No. 475-ZS "On Justices of the Peace in the City of Sevastopol", the content of which has not changed the text of extracts from the Law No. 50-ZS cited here.

procedure for administering justice by magistrate judges is stipulated in federal law.

[...]

ARTICLE 2. GUARANTEES OF STATUS OF MAGISTRATE JUDGES

Magistrate judges and their family members shall be using guarantees of judicial independence, judicial immunity, as well as material and social support, established by the Law of the Russian Federation of June 26, 1992 No. 3132-1 "On the Status of Judges in the Russian Federation" and other federal laws.

ARTICLE 3. COMPETENCE OF A MAGISTRATE JUDGE

1. Magistrate judges shall hear in the first instance civil, administrative and criminal cases assigned to their competence by legislation in force.

[...]

ARTICLE 4. JUDICIAL SUB-DISTRICTS

1. The operation of magistrate judges shall be carried out within the judicial district in judicial sub-districts.

[...]

5. The appointment of magistrate judges to judicial sub-districts is carried out by the Legislative Assembly of the city of Sevastopol.

[...]

ARTICLE 5. REQUIREMENTS FOR MAGISTRATE JUDGES AND CANDIDATES FOR THE POSITION OF MAGISTRATE JUDGE

Magistrate judges and candidates for the position of magistrate judge are presented with the requirements established by the Law of the Russian Federation of June 26, 1992 No. 3132-1 "On the Status of Judges in the Russian Federation", considering the provisions of the Federal Law of December 17, 1998 No. 188-FZ "On Magistrate judges in the Russian Federation.

ARTICLE 6. SELECTION OF CANDIDATES FOR THE POSITION OF MAGISTRATE JUDGE

The selection of candidates for the position of magistrate judges is conducted by the Administration of the Judicial Department in the city of Sevastopol (hereinafter referred to as the Administration of the Judicial Department) in accordance with the requirements stipulated in Article 5 of the Federal Law of December 17, 1998 No. 188-FZ "On Magistrate judges in the Russian Federation".

ARTICLE 7. THE PROCEDURE FOR THE APPOINTMENT (ELECTION) TO THE POSITION OF MAGISTRATE JUDGES

1. A candidate for the position of magistrate judge, who successfully passed the qualification exam and received a positive recommendation from the qualification board of judges of the city of Sevastopol, on the proposal of the chairman of the district court, which jurisdiction extends to the judicial sub-district of the territory of the corresponding judicial

district, shall be appointed to the position by the Legislative Assembly of the city of Sevastopol in the manner stipulated in this Law.

Persons who are exempted from passing the qualification exam for the position of magistrate judges are enumerated in item 5 of Article 5 of the Law of the Russian Federation of June 26, 1992 No. 3132-1 "On the Status of Judges in the Russian Federation".

[...]

7. The magistrate judge, appointed to the position of judge for the first time, takes the oath in the manner stipulated by the Law of the Russian Federation of June 26, 1992 No. 3132-I "On the Status of Judges in the Russian Federation".

[...]

ARTICLE 8. TERM OF THE OFFICE OF MAGISTRATE JUDGE

1. The magistrate judge shall be appointed for the first time for a term of five years. After the expiration of this period, the person holding the position of magistrate judge shall have the right to nominate himself again for appointment to this position.

2. In case of reappointment (re-election) and subsequent appointments (elections) to the position of magistrate judge, the magistrate judge shall be appointed for a term of five years. If, within the specified period, the magistrate judge reaches the age limit for tenure, he is appointed to the position of magistrate judge for a period until he reaches the age limit for tenure, established by the Federal Law of December 17, 1998 No. 188-FZ "On Magistrate judges in the Russian Federation".

[...]

ARTICLE 9. TERMINATION, SUSPENSION OF POWERS OF A MAGISTRATE JUDGE AND REPLACEMENT OF A TEMPORARILY ABSENT MAGISTRATE JUDGE

1. The powers of magistrate judge may be terminated in the cases and in the manner established by the Law of the Russian Federation of June 26, 1992 No. 3132-I "On the Status of Judges in the Russian Federation", considering the requirements of Article 8 of the Federal Law of December 17, 1998 No. 188-FZ "On Magistrate Judges in the Russian Federation."

[...]

2. The powers of magistrate judge may be suspended by a decision of the qualification board of judges of the city of Sevastopol in the cases and manner stipulated in the Law of the Russian Federation of June 26, 1992 No. 3132-I "On the Status of Judges in the Russian Federation".

[...]

ARTICLE 15. SYMBOLS OF STATE POWER IN THE COURTROOM OF MAGISTRATE JUDGES

1. The State flag of the Russian Federation and the image of the State Emblem of the Russian Federation shall be placed in the courtroom of magistrate judges; the flag of the city of Sevastopol and the image of the emblem of the city of Sevastopol may be also placed there.

[...]

The Law of the city of Sevastopol of June 26, 2015 No. 158-ZS "On the Creation of Judicial Sub-districts and the Positions of Magistrate Judges in the City of Sevastopol"[39]

ARTICLE 1

In accordance with the Article 4 of the Federal Law of December 17, 1998 No. 188-FZ "On Magistrate Judges in the Russian Federation", the Federal Law of December 29, 1999 No. 218-FZ "On the Total Number of Magistrate Judges and the Number of Judicial Sub-districts in the Constituent Entities of the Russian Federation", The Law of the city of Sevastopol "On Magistrate Judges of the City of Sevastopol" of July 25, 2014 No. 50-ZS twenty-one judicial sub-districts shall be created in the city of Sevastopol within the following judicial districts:

1. Balaklavsky district court of the city of Sevastopol – judicial sub-districts N° 1, N° 2, N°3;
2. Gagarinsky district court of the city of Sevastopol – judicial sub-districts N° 4, N° 5, N°6, N° 7, N° 8, N°9, N° 10;
3. Leninsky district court of the city of Sevastopol – judicial sub-districts N° 11, N° 12, N°13, N° 14, N° 15, N°16;
4. Nakhimovsky district court of the city of Sevastopol – judicial sub-districts N° 17, N° 18, N°19, N° 20, N° 21.

39 https://sevzakon.ru/view/laws/bank/06_2015/o_sozdanii_sudebnyh_uchastkov_i_dolzhnostej_mirovyh_sudej_goroda_sevastopolya/ Adopted by the Legislative Assembly of the city of Sevastopol. This Law has lost its force on June 7, 2018 with the adoption of the Law No. 427-ZS of June 26, 2018 "On the Creation of the Positions of Justices of the Peace of the City of Sevastopol and Judicial Sub-districts in the City of Sevastopol", the content of which did not change the text of extracts from the Law No. 158-ZS cited here.

According to the international law, occupation is a special legal regime. Due to this regime the rules of international humanitarian law are applied as *lex specialis*[40].

IHL imposes a number of international legal obligations on the Occupying Power in the field of the application of law and the realizing of justice in the occupied territory. These obligations are contained particularly in the norms of the Convention on the Laws and Customs of War on Land of 1907[41] (Hague IV), of the four Geneve Conventions for the Protection of War Victims of 1949 (GC), in separate rules of Additional Protocol I of 1977 to the Geneva Conventions (AP I), in the customary IHL rules, as well as in derivative law of competent international organization the United Nations.

The main obligations of the occupying Power in the specified area include:

1) related to the status of the occupied territory and the legislation of the occupied state:

- ban on depriving the protected persons of the benefits of GC IV neither by virtue of any change occurred in the regulations or management of this territory as a result of its occupation, nor by virtue of an agreement between the authorities of the occupied territory and the occupying state (Article 47 of GC IV);
- requirement to respect the current laws of the country whose territory is occupied, if there are no absolute obstacles to this (article 43 of the Civil Code); the occupying power does not have the right to spread its legislation to the occupied territories, or to act as a legislator in these territories. The purpose of the above article is not to create privileges for the occupier, but rather to restrict him. In particular, in civil matters, it was considered that the legislation of the occupying state in the field of succession and inheritance could not replace the legislation of the occupied state[42];
- it is recognized that the laws and measures adopted by the government of the occupied state during the occupation must be applied in the occupied territory, because the occupied state retains its sovereignty despite occupation (customary rule)[43];
- ban on changing the status of officials or judges of the occupied territories or appliance the sanctions or other pressure on them due to their refusal to fulfill their duties up to conscientious reasons. However, this does not affect the right to dismiss them (Article 54 of GC IV);
- requirement to maintain the existing tax rules as much as possible (Article 48 GK);
- requirement to uphold the criminal law of the occupied country, excluding norms that could threaten the security of the Occupying Power (Article 64 of GC IV);
- general requirement to fulfill the obligations under the international treaties in the occupied territory where the occupied state is a party (see Draft articles on the effects of armed conflicts on international treaties)[44];

2) in the sphere of realizing the justice in the occupied territories (in addition to the obligations mentioned above according to the Articles 54 and 64 of GC IV):

40 General Law rule *lex specialis derogat generali* (from lat. «special law takes precedence (prevails)»).
41 The Hague Convention IV.
42 Crt. of. App. of Th race, 1925, A. D., 3, 477–478; Norway, District Crt., of Aker, 25 Aug. 1943, A. D., 1943–1945, 446–447; Erik David, «Principles of the Law of Armed Conflicts», p. 566.
43 The Hague, Spec. Crim. Crt., 15 Nov. 1946, A. D., 1946, 350–351; Erik David, «Principles of the Law of Armed Conflicts», p. 566.
44 Draft articles on the effects of armed conflict on international treaties: https://www.un.org/ru/documents/decl_conv/conventions/pdf/armed_conflicts_effects.pdf p.45; Erik David, «Principles of the Law of Armed Conflicts», p. 567.

- adjudication of the accused person only by a duly constituted court (general article 3 for GC and for paragraph 4 of article 75 of AP 1);
- in the cases set forth in article 64 of GC IV, if the occupying state issues regulations providing for criminal liability, such decisions shall enter into force only after they are published and brought to the attention of the population in their language; the effect of these binding decrees shall not be retroactive (Article 65 of GC IV);
- in case of violation the criminal norms issued by the occupying state on the basis of Article 64 of GC IV, the occupying state may adjudicate the accused by own duly established non-political military court, if the accused persons stay in the occupied territory (Article 66 of GC IV);
- court's decisions issued prior to the occupation of a state (or part of its territory) may be amended by the judicial authorities created by the occupying power only if such authorities act in accordance with the laws of the occupied state or the rules that the occupying power is entitled to impose[45];
- for acts committed or for opinions expressed before the occupation, or during a temporary interruption thereof, with the exception of breaches of the laws and customs of war (Article 70 of GC IV);
- court proceedings must be conducted within the framework of fundamental international judicial principles and guarantees (Articles 71-75 of GC IV)[46] – *see also Chapter Correlation between IHL and IHRL in the Context of an International Armed Conflict.*

Depriving a prisoner of war or protected person of the right on a fair and regular trial is a serious violation of IHL (Article 130 GC III, Article 147 GC IV, Article 85 (4) (e) AP I, customary rule 100), and if intent, also constitutes as a war crime within the meaning of Article 8 8(2)(a)(vi) of the Rome Statute of the International Criminal Court.

It should be mentioned that article 8 of GC IV does not allow either full or partial refusal of the rights that this Convention provides for protected persons.

45 Sarawak, Supr. Crt., 22 March 1948, A. D., 1948, 586–587; Erik David, «Principles of the Law of Armed Conflicts», p. 566.

46 These principles and guarantees include the realization of justice in an independent, impartial and duly established court; observance of the presumption of innocence; right to defense and remedies; the assistance of a translator and the presence of the accused person in the court; compliance with general principles of law *non bis in idem* (from lat. you cannot be tried twice for the same act), *nullum poena sine lege* (from lat. there no punishment without the law) and other.

As the United Nations International Court of Justice (UN ICJ) indicated in its Advisory Opinion on the legality of the threat of nuclear weapons or their use of July 8, 1996, "the protection provided by the International Covenant on Civil and Political Rights does not cease during the war" (paragraph 25)[47].

In paragraph 106 of the Advisory Opinion on the legal consequences of the construction of the wall in the Occupied Palestinian Territory of July 9, 2004, the UN ICJ rejected Israel's argument about the inapplicability of the human rights treaties to which it is a party, and expressed the previous idea in such way: *«The Court considers that the protection afforded by human rights conventions does not cease by an armed conflict, with the exception of derogations provided in article 4 of the International Covenant on Civil and Political Rights. As for the correlation between international humanitarian law and human rights standards, thus there are three possible situations: some rights can only be issues of international humanitarian law; others may be solely a matter of human rights standards; the last one may be issues covered by both of these branches of international law. In order to answer the question posed before it, the Court must take into account both of these branches of international law, namely human rights standards and, as lex specialis, international humanitarian law»*[48]. The European Court of Human Rights also refers to this conclusion of the UN ICJ regarding the correlation between IHL and IHRL, in particular, in case *Hassan v. The United Kingdom*[49].

In case *Catan and others v. the Republic of Moldova and Russia* the ECtHR also noted that a state that exercises effective control outside its national territory as a result of hostilities must protect the rights and freedoms set forth by the Convention. This follows from the fact of such control, whether it is carried out directly, through the state's own armed forces or through local administration subordinate to it [50].

The matter of the correlation between IHL and IHRL in the context of an international armed conflict is important in the field of the administration of justice in the occupied territories by the Occupying Power in Crimea. Thus, due to the absence of detailed regulations on standards and principles of justice in the IHL, the existence of the obligations to adhere certain standards and principles by the Occupying Power can be interpreted through existing practices and provisions in the field of IHRL.

There is the practice of consideration of the cases on the violation of the right to a fair trial in the jurisdiction of the military tribunals that was conducted after the World War II. For example, the U.S. Military Tribunal in Nuremberg in a sentence of December 4, 1947 convicted defendants in a violation of the right to a fair trial. The tribunal saw a violation of this right in fact that the proceedings were secret, and during such proceedings it was forbidden to make any public recordings. Also, the violation was admitted by the fact that prisoners of war and civilians were denied the right to consider their guilt by a court[51].

It is hard to overestimate the role of the practice of universal and regional judiciary in the sphere of human rights in the context of defining standards for the exercise of the

47 Advisory Opinion of the UN ICJ regarding the legality of the threat or use of nuclear weapons of July 8, 1996: https://digitallibrary.un.org/record/223450#record-files-collapse-header

48 Advisory opinion of the ICJ, 'Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory', 9 July 2004: https://www.icj-cij.org/files/case-related/131/131-20040709-ADV-01-00-EN.pdf

49 Case of Hassan v. United Kingdom, application no. 29750/09, judgment, 16 September 2014: http://hudoc.echr.coe.int/eng?i=001-146501

50 Case of Catan and others v. the Republic of Moldova and Russia, application nos. 43370, 8252/05 and 18454/06, judgment, 19 October 2012: http://hudoc.echr.coe.int/eng?i=001-114082

51 United States, Military Tribunal at Nuremberg, Altstotter case (The Justice Trial), Case N°35, p. 96, 97, 102: http://www.worldcourts.com/imt/eng/decisions/1947.12.04_United_States_v_Altstotter.pdf

right to a fair trial and the obligation to respect that right. The United Nations Commission on Human Rights (now the UN Human Rights Council) in its Resolution 2005/63 of April 20, 2005 also acknowledged that "human rights law and international humanitarian law are complementary and mutually reinforcing [...] Protection provided by human rights law continues in armed conflict situations, taking into account when international humanitarian law applies as lex specialis". The resolution also emphasizes that "conduct that violates international humanitarian law [...] may also constitute a gross violation of human rights"[52].

According to the Article 21(1)(c) of the Rome Statute of the International Criminal Court, the Court applies general principles of law [...] that are compatible with international law and internationally recognized norms and standards. In addition, under the Article 21(3) of the ICC RS, the application and interpretation of the right by the Court must be consistent with internationally recognized human rights.

52 Resolution 2005/63 on Protection of the Human Rights of Civilians in Armed Conflicts: http://www.refworld.org/docid/429c562f4.html

System of Courts in the Territory of the Autonomous Republic of Crimea and the City of Sevastopol as of the End of February 2014

Before the occupation of the Crimean peninsula by the Russian Federation (February 20, 2014), the judicial system of the Autonomous Republic of Crimea and the city of Sevastopol was a part of Ukrainian unified judicial system and was regulated by the Law of Ukraine N°2453-VI "On the Judicial System and Status of Judges" of July 7, 2010 (before the occupation, the law acted as amended on February 2, 2014)[53].

According to part 2 of article 17 of that Law the system of courts of general jurisdiction included local courts, courts of appeal, higher specialized courts and the Supreme Court of Ukraine.

Totally 36 courts operated in Crimea and the city of Sevastopol, among them:

- *Courts on civil, administrative, criminal cases and cases on administrative offenses:*
  - 28 local courts;
  - Court of Appeal of the Autonomous Republic of Crimea;
  - Court of Appeal of the city of Sevastopol.
- *Courts on commercial cases:*
  - Commercial Court of the Autonomous Republic of Crimea;
  - Commercial Court of the city of Sevastopol;
  - Commercial Court of Appeal of the city of Sevastopol.
- *Courts on administrative cases:*
  - District Administrative Court of the Autonomous Republic of Crimea;
  - District Administrative Court of the city of Sevastopol;
  - Administrative Court of Appeal of the city of Sevastopol.

Courts on Civil, Administrative, Criminal Cases and Cases on Administrative Offenses

The system of these courts was created on the basis of Presidential Decree of May 20, 2011 N° 591/2011 "The Issues of the Local General and Appellate Courts Network"[54]. According to this decree, there were created 28 local courts on civil, administrative, criminal cases and cases on administrative offences, the Court of Appeal of the Autonomous Republic of Crimea and the Court of Appeal of the City of Sevastopol.

Local Courts

Under the part 1 and part 2 of Article 22 of the Law of Ukraine "On the Judicial System and the Status of Judges", such courts were the courts of first instance. Their subject of jurisdiction was determined by the relevant procedural codes and covered civil, criminal, administrative cases, as well as cases of administrative offenses.

53 https://zakon.rada.gov.ua/laws/show/2453-17
Subsequently, the Law has lapsed in connection with the adoption of a new version of the Law of June 2, 2016.
54 https://zakon2.rada.gov.ua/laws/show/591/2011
The Decree has lapsed according to the Presidential Decree of December 29, 2017 N° 452/2017

According to the Presidential Decree N° 591/2011 before the occupation there were created and acted the following local courts:

Local courts

№	Name	Court staff	Location
1	Alushta city court	8	Alushta city, Lenina Str., 23
2	Armyansk city court	3	Armyansk city, Shkolnaya Str., 4
3	Bakhchisaray regional court	9	Bakhchisaray city, Kooperativna Str., 1
4	Belogorsk regional court	6	Belogorsk city, Lunacharskyi Str, 39
5	Dzhankoy city and regional court	13	Dzhankoy city, R. Luxemburg Str., 11.
6	Evpatoria city court	14	Evpatoria city, Lenina Blvd., 30.
7	Kerch city court	17	Kerch city, Sverdlova Str, 4
8	Kirovskyi regional court	5	Kirovskoye urban village, R. Luxemburg Str., 25
9	Krasnogvardeiskyi regional court	7	Krasnogvardeiskoe urban village, Chkalova Str., 6
10	Krasnoperekopsk city and regional court	8	Krasnoperekopsk city, General Zakharov Str., 3-a.
11	Leninsky regional court	8	Lenino urban village, Pushkina Str., 33
12	Nizhnegorsky regional court	5	Nizhnegorsk urban village, Phontannaya Str., 8
13	Pervomaiskyi regional court	3	Pervomaiskoye urban village, Oktiabrskaya Str., 116-a.
14	Razdolnoye regional court	5	Razdolnoye urban village, Lenina str., 44
15	Saky city and regional court	12	Saky city, Lenina str., 19
16	Simferopol regional court	13	Simferopol city, K. Marks Str., 17
17	Sovetskyi regional court	5	Sovetskyi urban village, 30-years-of-Victory Str., 19.
18	Sudak city court	4	Sudak city, Lenina Str., 71
19	Feodosiya city court	13	Feodosiya city, Sverdlova Str., 1
20	Chernomorskyi regional court	4	urban village Chernomorskoye, Kirova Str., 19
21	Yalta city court	16	Yalta city, Dmitrieva Str., 4
22	Zheleznodorozhnyi District Court of Simferopol city	13	Simferopol city, Chromchenko Str., 6-a
23	Kievskyi District Court of Simferopol city.	15	Simferopol city, Vorovskogo Str, 16.
24	Tsentralnyi District Court of Simferopol city.	13	Simferopol city, Turetskaya Str, 2

№	Name	Court staff	Location
1	Balaklavskyi District Court of Sevastopol city	6	Sevastopol city, Kalicha Str., 25
2	Gagarinskyi District Court of Sevastopol city	12	Sevastopol city, Vakulenchuka Str., 3
3	Leninskyi District Court of Sevastopol city	15	Sevastopol city, Lenina Str., 31
4	Nakhimovskyi District Court of Sevastopol city	10	Sevastopol city, Admirala Makarova Str., 9

The staff of local and appellate courts as of February 2014 was determined in accordance with the Order of the State Judicial Administration of Ukraine N° 11 dated January 17, 2011 (as amended on September 5, 2012)[55]

55 https://zakon.rada.gov.ua/rada/show/v0011750-11/ed20120905

Courts of Appeal

According to the above mentioned Presidential Decree of May 20, 2011 N° 591/2011 there were created also: 1) the Court of Appeal of the Autonomous Republic of Crimea, being the appellate instance for reviewing the decisions made by local courts of the Autonomous Republic of Crimea and the city of Simferopol, and 2) the Court of Appeal of the city of Sevastopol, being the appellate instance for reviewing the decisions made by the local courts of the city of Sevastopol.

According to the part 2 of the article 36 of the Law of Ukraine "On the Judicial System and Status of Judges" the courts of appeal examined on appeal procedure civil and criminal cases and cases on administrative offenses. Also these courts were acting like first instance' courts in cases covered by procedural codes of Ukraine (part 1 of the article 27 of the Law).

The appelate instance

1. The Court of Appeal of the Autonomous Republic of Crimea

Court staff - 91 judges.

Location:
Simferopol city, Pavlenko Str., 2;
Feodosiya city, Grecheskaya Str., 3-a.

2. The Court of Appeal of the city of Sevastopol.

Court staff - 26 judges.

Location:
Sevastopol city, Suvorova Str., 20.

Courts on Commercial Cases (Commercial Courts)

The system of commercial courts was created in Crimea on the basis of the Presidential Decree of August 12, 2010 N° 811/2010 «The Issues of the Network of Commercial Courts of Ukraine»[56]. Thus on the peninsula there were created:

1. Commercial Court of the Autonomous Republic of Crimea.

It was the first instance court to solve commercial cases in the Autonomous Republic of Crimea.

Court staff - 35 judges (according to the State Court Administration Order N° 10 of January 17, 2011)[57].

Location: Simferopol city, A. Nevskogo Str., 29/11.

2. Commercial Court of the city of Sevastopol.

It was the first instance court to solve commercial cases in the city of Sevastopol.

Court staff - 17 judges (according to the State Court Administration Order N° 10).

56 https://zakon.rada.gov.ua/laws/show/ru/811/2010
The Decree has expired due to the Presidential Decree N° 454/2017 of December 29, 2017.
57 https://dsa.court.gov.ua/dsa/inshe/14/N102011

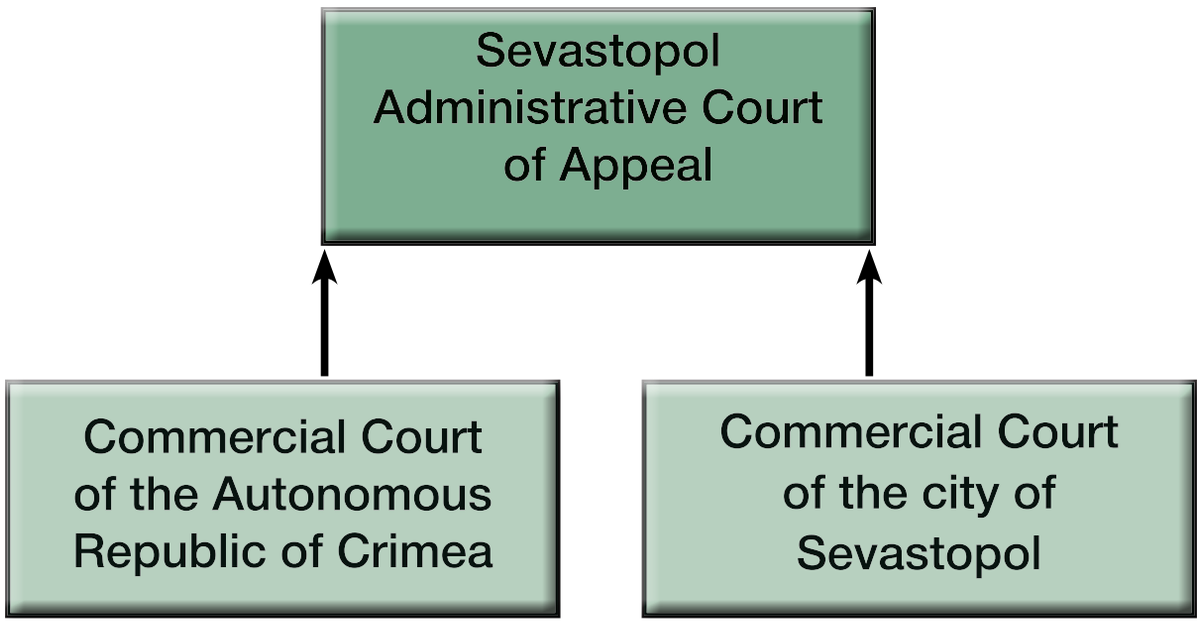
Location: Sevastopol city, L. Pavlichenko Str., 5.

3. Sevastopol Commercial Court of Appeal.

It was the appeal court to review the decisions of the commercial courts of the Autonomous Republic of Crimea and the city of Sevastopol.

Court staff - 27 judges (according to the State Court Administration Order N° 10).

Location: Sevastopol city, Suvorova Str., 21.



Courts on Administrative Cases (Administrative Courts)

The system of administrative courts was created on the basis of the Presidential Decree dd. November 16, 2004 N° 1417/2004 «On Creation of Local Administrative Courts, and Approving of their Network»[58], which is acted at the moment of the beginning of the occupation as amended on July 17, 2012 (last changes were made by the Presidential Decree N° 419/2012). Thus on the peninsula there were created:

1. District Administrative Court of the Autonomous Republic of Crimea.

It was the first instance court to solve administrative cases in the Autonomous Republic of Crimea.

Court staff consists of 31 judges (according to the Order N° 52 of the State Judiciary Administration dd. May 14, 2012 (as amended on 01.01.2014)[59].

Location: Simferopol city, Sevastopolska Str., 43.

2. District Administrative Court of the city of Sevastopol.

It was the first instance court to solve administrative cases in the city of Sevastopol.

Court staff consists of 14 judges (according to the Order N° 52 of the State Judiciary

58 https://zakon.rada.gov.ua/laws/show/1417/2004
59 https://zakon.rada.gov.ua/rada/show/v0052750-12

Administration).

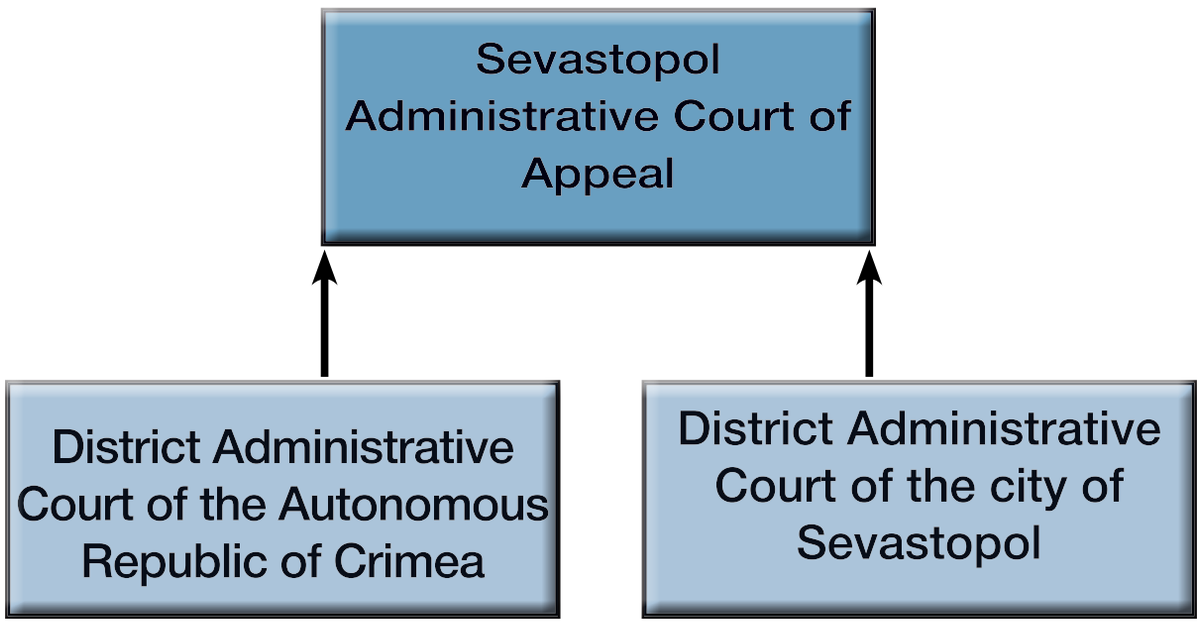
Location: Sevastopol city, Vakulenchuka Str., 29/1.

3. Sevastopol Administrative Court of Appeal.

It was the appeal court to review decisions of District Administrative Court of the Autonomous Republic of Crimea and District Administrative Court of the city of Sevastopol. In cases expressly provided for by the legislation acted like a first instance court.

Court staff consisted of 26 judges (according to the Order N° 52 of the State Judiciary Administration);

Location: Sevastopol city, Bolshaya Morskaya Str., 1.



In connection with the occupation of Crimea and the city of Sevastopol by the Russian Federation, there was adopted the Law of Ukraine dd. April 15, 2014 N°1207-VII "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime on the Temporarily Occupied Territories of Ukraine"[60]. Recognizing the impossibility of the courts of the Autonomous Republic of Crimea and the city of Sevastopol to administer justice in the occupied territories, the article 12 of this Law established the territorial jurisdiction of the Crimean and Sevastopol courts' cases for the courts of corresponding jurisdiction located in Kyiv city (see above – the chapter *"The Ukrainian Legislation"*).

This article also stipulates that all cases proceeded by the courts of the Autonomous Republic of Crimea and the city of Sevastopol at the time of adoption of this Law and whose consideration has not been completed should be transferred to the Kyiv courts within 10 days of the entry into force of the Law. In practice, this provision of the Law was ignored because by that time the Russian Federation had already established full control over the courts of the peninsula and pursued the policy of their "integration" into the Russian judicial system.

The official resolution to terminate the Ukrainian courts' activities in Crimea and the

60 https://zakon.rada.gov.ua/laws/main/1207-18

city of Sevastopol was made by the High Council of Justice on January 25, 2018[61]. The resolution was made according to the list submitted on January 9, 2018 by the President of the Supreme Court based on part 7 of article 147 of the new Law of Ukraine "On the Judicial System and Status of Judges"[62] dd. June 2, 2016.

61 Resolution N° 182/0/15-18 «The termination of the work of courts due to a natural disaster, hostilities, counter-terrorism measures or other extraordinary circumstances».

62 https://zakon.rada.gov.ua/laws/main/1402-19

Functioning of the Judicial System of the Autonomous Republic of Crimea and the City of Sevastopol during the Active Phase of the Occupation of the Peninsula of the End of February 2014

The extremely unstable political situation that developed on the peninsula since the end of February 2014 had a significant impact on the functioning of the courts in the Autonomous Republic of Crimea and the city of Sevastopol. Formally, the courts still remained Ukrainian, but inside the courts the possibility of "accession" of the peninsula to the Russian Federation was openly discussed.

After the seizure of administrative buildings by the Russian military in Crimea, and before the so-called referendum on 16 March and the adoption on 21 March 2014 of the Federal Constitutional Law on the entry of the Autonomous Republic of Crimea and the city of Sevastopol into the Russian Federation (hereinafter – the Law 6-FKZ)[63], the status of courts was not clear for ordinary citizens. Many courts suspended the receipt of applications and complaints, ceased to schedule hearings for which proceedings had previously been opened, and those cases in which hearings had already been scheduled were adjourned by the judges, usually without a date[64]. The flags of Ukraine disappeared from the buildings of Crimean and Sevastopol judicial institutions long before the so-called referendum.

According to the courts, the reason for postponing the consideration of criminal cases was the impossibility of ensuring the delivery of persons in custody, allegedly for security reasons. As for civil, administrative and economic proceedings, the judges did not give any explanation for the suspension of the consideration of cases.

This is partly due to the fact that the judges, like the majority of the population of the peninsula, did not understand the ongoing situation and were at a loss, while some judges openly told the parties to proceedings and visitors that the courts would continue their work "after determining the status of Crimea" or "solving the issue of accession of Crimea to the Russian Federation".

During this period, there were no explanations from the representatives of the official Ukrainian authorities in Kyiv about the possible transfer of case files to mainland Ukraine and about the relocation of courts and judges to mainland Ukraine to continue the administration of justice.

Those few statements that were made by the representatives of the High Council of Justice, the High Qualification Commission of Judges and the high specialised courts were reduced to calls "to continue to fulfil their duties and to remain faithful to the oath of the judge"[65].

In late February - early March 2014, some Ukrainian judges realising the danger posed by the Russian Federation, took a short-term leave and left the peninsula with their family members, own archives and other property. In Kyiv, they appealed to the High Council of Justice[66], the High Qualification Commission of Judges, the Judicial Administration, the Ministry of Justice, the high specialised courts and the Supreme Court with requests to be transferred to the mainland Ukraine, but everywhere they heard the same assurances that they would not be left, and that they must remain faithful to the oath of a judge. They were forced to return to the peninsula, where the Russian Federation had already established full

63 http://pravo.gov.ru/proxy/ips/?docbody=&nd=102171897
Federal Constitutional Law "On the Admission to the Russian Federation of the Republic of Crimea and the Formation of New Subjects in the Russian Federation - the Republic of Crimea and the City of Federal Significance Sevastopol", N 6-FKZ, 21 March 2014.

64 http://reyestr.court.gov.ua/Review/37547143

65 https://vkksu.gov.ua/ua/news/igor-samsin-zaklikav-suddiv-avtonomnoi-respubliki-krim-dotrimuvatis-prisyagi/

66 Since January 2017 – High Council of Justice, https://zakon.rada.gov.ua/laws/card/1798-19

control, and where preparations were underway for the so-called referendum scheduled for 16 March.

As mentioned above, the flags of Ukraine were removed from the buildings of courts. They were also removed from most courtrooms. The judges began to openly ignore the legislation of Ukraine regarding the use of Ukrainian in the administration of justice and used the Russian language during court hearings which were held during this period.

After 6 March 2014, when a new date for the so-called referendum was announced (16 March), there were held unofficial meetings of judges in courts, which concerned the issues of Crimea's accession to the Russian Federation, the prospects for the transfer of courts under the jurisdiction of the Russian Federation, the subsequent operation of courts and work of judges. During this period, many judges openly expressed their support of the idea of the peninsula's transfer under the jurisdiction of the Russian Federation, seeing the opportunity to improve their financial situation due to the higher salaries of Russian judges compared to Ukrainian ones. In those few decisions adopted by Crimean courts during this difficult period, they contained references to Ukrainian legislation, but in general the indication that decisions were adopted "in the name of Ukraine" was missing[67].

Even before the adoption of the Law "on the entry of Crimea into the Russian Federation", in many courts there were judges who called for studying the legislation of the Russian Federation and transitioning to legal proceedings based on it. In particular, V. Chornobuk, the chairman of the Court of Appeal of the Autonomous Republic of Crimea, who later was one of the first to give an induction lecture on Russian law to the Crimean judges, openly called on judges to do that. Moreover, on the website of the court presided by Chornobuk (the gov.ua domain), the Russian emblem and a link to the website of the President of the Russian Federation were posted[68].

Only a few judges demonstrated restraint and loyalty to the oath during this difficult time and continued to decide cases on the basis of Ukrainian legislation, in Ukrainian and indicated in decisions that they were adopted "in the name of Ukraine". Most of these judges subsequently left the peninsula and continued to exercise the functions of a judge in mainland Ukraine.

After the so-called referendum and the adoption of the abovementioned Law 6-FKZ on 21 March 2014, judges of the Autonomous Republic of Crimea and the city of Sevastopol lost the status of Ukrainian judges and became "citizens replacing judges". In accordance with part 2 of Article 9 of this Law, they were granted "a pre-emptive right to fill a judge's position in the courts of the Russian Federation established in this territory, subject to the adoption of citizenship of the Russian Federation, and also subject to other requirements of the laws of the Russian Federation on the status of judges for judges candidates".

Almost immediately after these events, Ukrainian passports were confiscated from all the judges who wished to continue their work in Crimea and Russian passports were preferentially issued for them. They were also requested to write applications renouncing Ukrainian citizenship[69].

Even though Law 6-FKZ defined the status of former Ukrainian judges as "citizens replacing judges", these judges called themselves "judges" in all procedural documents.

In the first months of the occupation, on the peninsula numerous seminars were held

67 See, e.g., several decisions in the Unified Register of Court Decisions of Ukraine: http://reyestr.court.gov.ua/Review/37349470; http://reyestr.court.gov.ua/Review/37436655

68 https://hromadske.ua/posts/hto-takij-valerij-chornobuk-ta-v-chomu-jogo-zvinuvachuyut

69 http://www.c-inform.info/interviews/id/29
http://gs.sev.sudrf.ru/modules.php?name=press_dep&op=1&did=14
https://ria.ru/20140520/1008514063.html

for “citizens replacing judges” to study the legislation of the Russian Federation and the law-enforcement practices of Russian courts. Meanwhile, most judges understood that their level of competence in Russian law could not be compared to judges of the Russian Federation, and in the future, it would be difficult for them to compete with them on equal terms in matters of appointment. Some of these judges saw a way out by “serving” the occupying and Russian authorities, specifically, by issuing decisions that were beneficial to the authorities. Through such actions the judges hoped to maintain the status of a judge after the end of the so-called “transition period”.

Even after the “referendum”, the situation remained so incomprehensible and confusing that judges while deciding criminal cases omitted the phrase “in the name of Ukraine” and gave no indication of the name of a state under the law and jurisdiction of which this sentence was decided[70]. Meanwhile, during this period, decisions (even those where it was stated that they were made “in the name of the Russian Federation”) were certified by Ukrainian court seals portraying Ukrainian emblem.

After the illegal referendum and the adoption on 21 March 2014 of the abovementioned Federal Constitutional Law “On the entry of the Autonomous Republic of Crimea and the city of Sevastopol into the Russian Federation”, it became clear to Ukrainian judges who refused to serve the occupying power that the only solution was relocation to mainland Ukraine.

On 24 March 2014, the Council of Judges of Economic Courts of Ukraine called on all judges and staff of the apparatus of economic courts in the territory of the Autonomous Republic of Crimea and the city of Sevastopol to declare their desire to transfer to the courts operating in mainland Ukraine and to relocate there[71]. The Council also adopted Decision No. 296 appealing to the acting President of Ukraine, Verkhovna Rada of Ukraine, the Cabinet of Ministers, the Council of Judges, the High Qualification Commission of Judges and the State Judicial Administration of Ukraine to take all necessary measures to transfer judges and staff of economic courts of the Autonomous Republic of Crimea and the city of Sevastopol to economic courts of other regions of Ukraine.

On the same day, the chairman of the High Qualification Commission of Judges, Igor Samsin, said that 19 Crimean judges had already applied to the Commission with a request to transfer them to mainland Ukraine[72].

After 10 days, Samsin also announced that there were already 46 such applications under consideration of the High Qualification Commission of Judges and that the commission had decided to simplify the transfer procedure for Crimean judges by reducing the list of required documents[73]. This decision of the Commission was due to the fact that the personal files of many judges remained in the courts in the occupied territory, accordingly, at that time, the judges were objectively deprived of the opportunity to submit all the required documents for transferring from one court to another.

At the legislative level, the right of judges of the courts of the Autonomous Republic of Crimea and the city of Sevastopol to be transferred to the courts of mainland Ukraine was first defined in the Law of Ukraine “On ensuring the rights and freedoms of citizens and the legal regime in the temporarily occupied territory of Ukraine”, dated 15 April 2014[74]. Article 16 of this Law establishes that “the judges who worked at the courts of Ukraine on the

70 https://snob.ru/selected/entry/74087/
71 https://rsgs.court.gov.ua/rsgs/98098/
72 https://vkksu.gov.ua/ua/news/19-suddiv-z-krimu-zvernulis-do-komisii-z-prohannyam-perevestis-v-inshi-sudi-ukraini-i-samsin/
73 https://vkksu.gov.ua/ua/news/igor-samsin-dlya-zabezpechennya-yaknayshvidshogo-virishennya-pitannya-z-perevedennyam-krimskih-suddiv-komisiya-priynyala-rishennya-priymati-vid-nih-dokumenti-za-skorochenim-perelikom-/
74 https://zakon.rada.gov.ua/laws/show/1207-18

territory of the Autonomous Republic of Crimea and the city of Sevastopol and requested to relocate due to the temporary occupation by the Russian Federation are guaranteed the right to be transferred to the post of a judge in another territory of Ukraine".

According to some judges, such a late reaction of Ukrainian authorities to the events to a certain extent negatively affected the number of judges who requested to transfer to mainland Ukraine from the occupied peninsula. According to the High Qualification Commission of Judges of Ukraine, at the time occupation began, 492 judges were working in the courts of the Autonomous Republic of Crimea and the city of Sevastopol[75], out of which only 52 judges decided to leave the peninsula and continue to work in mainland Ukraine[76]. After moving to mainland Ukraine and "securing" a position of a judge at various courts, many of them had to wait months or even years for an official appointment.

The General Prosecutor's Office of Ukraine opened criminal proceedings under Article 111 of the Criminal Code of Ukraine - high treason - in relation to the judges who remained in the occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol, went to the service of the Russian Federation and continued to administer justice under its jurisdiction. It was reported that 276 former Crimean and Sevastopol judges were suspects in this case[77]. According to the information obtained by RCHR while preparing this review, as of November 2019, 324 former judges had been notified of their status as suspects in the proceedings.

On 11 July 2019, the first judgment was issued against a judge of the Court of Appeal of the Autonomous Republic of Crimea, who transferred to the service of the Russian Federation and administered justice on behalf of the Russian Federation on the territory of the occupied peninsula, while maintaining the status of a Ukrainian judge. Svyatoshynsky District Court of Kyiv held the proceedings *in absentia* and found the judge guilty of high treason and sentenced her to 12 years in prison[78].

75 https://vkksu.gov.ua/ua/news/19-suddiv-z-krimu-zvernulis-do-komisii-z-prohannyam-perevestis-v-inshi-sudi-ukraini-i-samsin/
76 https://pravo.org.ua/ua/news/5273-
77 https://blogs.pravda.com.ua/authors/leschenko/5685550fe8d67/
https://112.ua/politika/pecherskiy-sud-arestoval-imushhestvo-krymskih-sudey-obvinyaemyh-v-gosizmene-251800.html
78 http://reyestr.court.gov.ua/Review/82966001

Application of the Russian Federation's legislation in the occupied territory of the Crimean peninsula

One of the consequences of the illegal accession of the occupied territories of the Autonomous Republic of Crimea and the city of Sevastopol to the Russian Federation was the application of Russian legislation on these territories. The authorities of the Russian Federation brought it into effect by signing the agreement with representatives of the self-proclaimed Crimean authorities, and by the subsequent adoption and enforcement of several laws and regulations.

Replacement of the legislation of an occupied country with the legislation of an Occupying Power is a violation of IHL (for further details refer to chapter 6 "*Obligations of the Occupying Power in the Application of Law and the Administration of Justice in the Occupied Territory*").

The official date when the legislation of the Russian Federation started to be distributed on the territory of Crimea

On March 18, 2014, the so-called "Agreement between the Russian Federation and the Republic of Crimea on the Accession of the Republic of Crimea to the Russian Federation and the Formation of new constituent entities in the Russian Federation" was signed between the Russian Federation and representatives of the self-proclaimed actual authorities of the Crimea (hereinafter "the Agreement on the accession of Crimea to the Russian Federation"). The Agreement was ratified on March 21, 2014.

The Agreement on the accession of Crimea to the Russian Federation actually became the main document the Russian authorities referred to when developing subsequent legal regulations aimed at extending the jurisdiction and legislation of the Russian Federation to the territory of Crimea.

According to item 1 of Article 9 of the Agreement, the legislation of the Russian Federation becomes effective in the territory of Crimea and the city of Sevastopol from the day of accession of the Republic of Crimea to the Russian Federation. According to Article 1 of the aforementioned document, the Republic of Crimea is considered to be included to the Russian Federation from the date of signing the "Agreement on the accession of Crimea to the Russian Federation", that is, from March 18, 2014. Thus, March 18, 2014 is the official date of distribution of the legislation of the Russian Federation to the occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol.

The Federal Constitutional Law No. 6-FKZ of March 21, 2014 as the main regulatory act of the Russian Federation on distribution of its legislation to the territory of Crimea and the city of Sevastopol

On March 21, 2014, the State Duma of the Russian Federation adopted the Federal Constitutional Law No. 6-FKZ "On the Accession of the Republic of Crimea to the Russian Federation and the Formation of New Constituent Entities in the Russian Federation – the Republic of Crimea and the Federal City of Sevastopol" (hereinafter - Law No. 6-FKZ). According to Article 24 of the Law No. 6-FKZ, it comes into effect since the day of the commencing of the "Agreement on the Accession of Crimea to the Russian Federation", that is, from March 18, 2014. Thus, this law was given retroactive effect.

The Law No. 6-FKZ has become the main regulatory act on distribution of the legislation of the Russian Federation to the territory of Crimea and the city of Sevastopol. This law

contains both the general rule on the application of Russian legislation in Crimea, and the norms providing for the administration of the laws of the Russian Federation in specific areas. Also, this Law No. 6-FKZ became the ground for introducing amendments to the Constitution of the Russian Federation related to the formation of "new constituent entities of the Federation - the Republic of Crimea and the federal city of Sevastopol."

Granting the status of a federal constituent entity to Crimea and the city of Sevastopol and its importance in the process of distribution of the legislation of the Russian Federation

According to Article 2 of the "Agreement on the Accession of Crimea to the Russian Federation" and Article 2 of the Law 6-FKZ, from the date of Crimea's accession to the Russian Federation, new constituent entities are formed within the Russian Federation - the Republic of Crimea and the Federal city of Sevastopol.

On April 11, 2014, Article 65 of the Constitution of the Russian Federation was amended on the grounds of the Law 6-FKZ: the names "Republic of Crimea" and "Federal city of Sevastopol" were added to the list of constituent entities of the Russian Federation.

Giving the occupied Autonomous Republic of Crimea and the city of Sevastopol the status of constituent entities of the Federation is one of the most significant actions of the Occupying Power aimed at extension of Russian legislation to these territories. This arises out of the foundations of the Russian Federation's constitutional system. For instance, according to item 1 of Article 4 of the Constitution of the Russian Federation, the sovereignty of the Russian Federation extends to the entirety of its territory. According to item 2 of Article 4 of the Constitution of the Russian Federation, the Constitution of the Russian Federation and federal laws have supremacy throughout the entire territory of the Russian Federation.

Thus, through enshrining the status of federal constituent entities for Crimea and the city of Sevastopol in the Constitution, the Russian Federation extended its sovereignty and jurisdiction of its constitution and federal legislation to this territory.

However, the process of distribution of the Russian legislation to the occupied Crimean peninsula and the city of Sevastopol did not end with the adoption of the abovementioned legal norms. The so-called transitional period was introduced to entirely ensure the enforcement of the legislation of the Russian Federation in these territories. According to Article 6 of the "Agreement on the Accession of Crimea to the Russian Federation" and Article 6 of the Law No. 6-FKZ, from the day that the Republic of Crimea accedes to the Russian Federation and new constituent entities are formed and until January 1, 2015, a transitional period is in effect for settling issues of integrating the new federal constituent entities into economic, financial, credit and legal systems of the Russian Federation, and system of state authority bodies of the Russian Federation.

Integration into the legal system of the Russian Federation means ensuring the real enforcement of the Russian legislation, which had previously been extended to the occupied territory of Crimea and the city of Sevastopol.

Extension of the legislation of the Russian Federation to legal proceedings in occupied Crimea and the city of Sevastopol.

Item 1 of Article 9 of the Law No. 6-FKZ provides for the creation of federal courts in the territory of Crimea and the city of Sevastopol in accordance with the legislation of the Russian Federation. According to item 21 of Article 9 of the Law No. 6-FKZ, during the transitional period (i.e., until January 1, 2015), operation of courts and enforcement of judicial decisions are carried out in accordance with the legislation of the Russian Federation.

Item 3 of Article 9 of the aforementioned law provides that in the territories of the Republic of Crimea and the federal city of Sevastopol, on the initiative of the legislative (representative) state authority of the Republic of Crimea and the legislative (representative) state authority of the federal city of Sevastopol, under approval of the Supreme Court of the Russian Federation, judicial sub-districts and the positions of justices of the peace shall be created in accordance with the legislation of the Russian Federation.

Judicial proceedings in economic, civil, administrative and criminal cases pending before the courts of first instance as of March 18, 2014, should be administered under procedural law of the Russian Federation (item 7 of Article 9 of the Law No. 6-FKZ).

Appeals pending before the courts of appeal as of March 18, 2014 which have not been proceeded as of that date should be also administered under procedural law of the Russian Federation (item 8, Article 9 of the Law No. 6-FKZ).

Also, the provisions of Article 9 of the Law No. 6-FKZ provide for an appeal under procedural legislation of the Russian Federation against decisions of general, administrative and economic courts that came into force as of March 18, 2014 (items 9-15 of Article 9).

Item 20 of Article 9 of the Law No. 6-FKZ extends the effect of the criminal procedural legislation of the Russian Federation to the investigation of criminal cases pending in pre-trial investigation bodies in the territory of Crimea and the city of Sevastopol as of March 18, 2014.

In accordance with items 3-4 of Article 8 of the Law No. 6-FKZ, employees of the prosecutor's office of Ukraine, who are holding positions in these bodies, operating in the territories of the Republic of Crimea and the federal city of Sevastopol on the day of accession of the Republic of Crimea to the Russian Federation and formation of new constituent entities in the Russian Federation, have a preferential right to be appointed to the bodies of the prosecutor's office of the Russian Federation created in these territories, if they have citizenship of the Russian Federation, and also if they have passed an examination for knowledge of the Russian legislation and in case of their compliance with the requirements of the legislation of the Russian Federation for officers of prosecution bodies.

Until the creation of prosecution agencies of the Russian Federation in the territories of the Republic of Crimea and the federal city of Sevastopol, the respective authorities in these territories are exercised by the prosecution bodies operating on the day of the accession of the Republic of Crimea and formation of new constituent entities in the Russian Federation.

On May 05, 2014, the Federal Law No. 91-FZ "On the Application of the Provisions of the Criminal Code of the Russian Federation and the Criminal-Procedural Code of the Russian Federation on the Territories of the Republic of Crimea and the Federal City of Sevastopol" was adopted (hereinafter - the Law No. 91-FZ). This Law is a special regulatory act regulating the distribution of criminal and criminal procedural legislation of the Russian

Federation to the occupied territories of the Crimean peninsula.

It should be noted that the texts of the Criminal Code of the Russian Federation and the Criminal-Procedural Code of the Russian Federation were not officially published on the occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol neither on the day the Federal Law No. 91-FZ became effective, nor later.

On June 08, 2015, the Federal law No. 138-FZ "On the Application of Provisions of the Federal law "On Enforcement Proceedings" in the Territories of the Republic of Crimea and the Federal City of Sevastopol" was adopted. This law, among other things, provides that executive documents issued by Ukrainian authorities in Crimea and the city of Sevastopol before March 18, 2014 are subject to execution in accordance with the Federal law of the Russian Federation "On Enforcement Proceedings" if the debtor's place of residence or his property is located in the Russian Federation (item 2 of Article 3 of the Law).

The bar bodies in the territory of Crimea and the city of Sevastopol were created in accordance with item 1 of Article 21 of the Law of the Russian Federation No. 6-FKZ. The status of an advocate in the territory of Crimea and the city of Sevastopol is subject to the general requirements stipulated by the legislation of the Russian Federation on advocacy.

On March 21, 2014, the Federal Constitutional Law No. 6-FKZ "On the Accession of the Republic of Crimea to the Russian Federation and the Formation of New Constituent Entities in the Russian Federation – the Republic of Crimea and the Federal City of Sevastopol"[79] (hereinafter - the Law on the Accession, the Law 6-FKZ) was adopted, which established a transitional period from the day of its adoption until January 1, 2015. During this period, it was supposed to settle "the issues of integration of new constituent entities of the Russian Federation into the economic, financial, credit and legal systems of the Russian Federation, and system of state authority bodies of the Russian Federation" (Article 6).

This law, among other things, provided for creation of the courts of the Russian Federation in the occupied territories and procedure for administering justice in the transitional period. Article 9 of the Law 6-FKZ stipulated that during the transitional period courts of the Russian Federation should be created in the "newly annexed territories" in accordance with the Russian legislation on the judicial system, and with consideration for the administrative-territorial division of "new constituent entities".

Thus, the creation of a court system in the occupied territory can be nominally divided into two periods - the ***transitional period***, during which the judicial system that previously existed on the peninsula was largely maintained (except for the system of administrative courts) and the period of ***the functioning of the new judicial system*** (from December 26, 2014 till present).

JUDICIAL SYSTEM IN TRANSITIONAL PERIOD - FROM MARCH 21 TO DECEMBER 25, 2014

Item 5 of Article 9 of the Law 6-FKZ stipulated that until the creation of new courts, justice on behalf of the Russian Federation is exercised by the courts operating on the peninsula on the day of the accession to the Russian Federation. Thus, the courts of the Autonomous Republic of Crimea and the city of Sevastopol, which had previously administered justice on behalf of Ukraine, were authorized to continue administration of justice, but now on behalf of the Russian Federation and its laws.

In accordance with this Law 6-FKZ, Ukrainian judges who worked in the courts of the Autonomous Republic of Crimea and the city of Sevastopol before the occupation received the status of "persons acting in the positions of judges of these courts" and were authorized to continue to administer justice until the creation and commencement of operation of the Russian courts in the abovementioned territories. The Law 6-FKZ determined Russian citizenship as a condition for continuing working in court, so the judges who agreed to turn to service to the Russian Federation in the status of "persons acting in the positions of judges" were among the first to receive Russian passport in Crimea after the beginning of the occupation. They also received a preferential right to fill a judge's position in courts established in the territory of the Autonomous Republic of Crimea, upon condition of their compliance with the requirements of the legislation of the Russian Federation on the status of judges for candidates for judicial offices.

Another prerequisite for maintaining the position of a judge was the administration of justice on behalf of the Russian Federation.

79 http://pravo.gov.ru/proxy/ips/?docbody=&prevDoc=102353831&backlink=1&&nd=102171897

The procedure for considering cases during the transitional period was regulated by items 6-19 of Article 9 of the Law 6-FKZ.

Criminal proceedings

Criminal cases pending before the courts of first instance were subject to review by local courts and respective courts of appeal in accordance with the procedural legislation of the Russian Federation. At the same time, the condition for such a review was the support for the previously charged prosecution by the respective territorial body of the prosecutor's office of the Russian Federation on behalf of the Russian Federation. In fact, the prosecution in the courts was supported by those staff members of the prosecutor's office who worked there before the occupation and joined the service of the Russian Federation (according to article 8 of Law 6-FKZ).

The final instance for the review of criminal cases was assigned the Judicial Chamber for Criminal Cases of the Supreme Court of the Russian Federation, where it was possible to file a cassation against a court verdict (decision, ruling) within 3 months from the date it came into force, provided that the verdict had been previously reviewed on appeal. As grounds for review of the verdicts (rulings, decisions) that came into force, the law established "significant violations … by the courts of the substantive and procedural law" of the Russian Federation.

Civil proceedings

Complaints in civil cases issued in local courts, which had not been reviewed on the day of the entry into force of the Law on the Accession, were subsequently subject to review, in accordance with the procedural legislation of the Russian Federation, by courts operating in the territory of Crimea before the occupation.

The same requirements applied to appeals admitted for proceedings, which have not been reviewed by the courts.

The final appellate instance in civil proceedings was the Judicial Chamber for Civil Cases of the Supreme Court of the Russian Federation. Court decisions that came into force could be appealed to the Judicial Chamber within 3 months from the date they became final, provided that they had been previously reviewed on appeal.

Judicial proceedings in commercial courts

Judicial proceedings in commercial cases, that had been already initiated before the court, were supposed to be continued by respective commercial courts of the first instance (the Commercial Court of the city of Sevastopol and the Commercial Court of the Autonomous Republic of Crimea), and the appeals were subject to review by the court of appeal (the Sevastopol Commercial Court of Appeal) in accordance with the legislation of the Russian Federation. Cassation proceedings were carried out by the Supreme Arbitration Court of the Russian Federation.

There is a known case when the chairman of the Sevastopol Commercial Court of Appeal, after the so-called referendum and the commencement of the Law 6-FKZ, refused to send up cases to the Supreme Arbitration Court of the Russian Federation, and instead he sent them up to the Supreme Economic Court of Ukraine, which led to his release from the office through interference of the occupation authorities[80].

80 https://www.rbc.ru/politics/04/09/2014/570421b79a794760d3d413b7

Administrative offences proceedings

The Law 6-FKZ stipulated that court review of cases of administrative offenses, the proceedings in which had not been completed at the time the Law came into force, were supposed to be carried out in accordance with the procedural legislation of the Russian Federation.

Decisions in administrative offenses that came into legal force could be appealed to the Supreme Court of the Russian Federation in accordance with Chapter 30 of the Code of Administrative Offenses of the Russian Federation.

Judicial proceedings in administrative cases

Major difficulties and confusion occurred regarding proceedings in cases that, in accordance with Ukrainian law, belonged to the jurisdiction of administrative courts.

Article 9 of the Law on the Accession indicated that such cases should be heard by the courts of first instance, which operated in the occupied territories at the time of their accession, in accordance with the legislation of the Russian Federation. As mentioned above, before the occupation administrative courts operated on the territory of the Autonomous Republic of Crimea and the city of Sevastopol, the jurisdiction of which included:

- disputes between private individuals or legal entities and a subject of authoritative powers regarding an appeal against its decisions (regulations, pieces of legislation or legal acts of individual force), actions or inaction;
- disputes related to hiring citizens for the public service, carrying out the public service and dismissing from the public service;
- disputes between private individuals or legal entities and taxation bodies, customs and other regulatory authorities;
- disputes related to legal relationships in the sphere of the elections, etc.

Whereas, there are no courts of administrative jurisdiction in the judicial system of the Russian Federation, and disputes of this kind are heard in general or arbitration courts, or in military courts.

Thus, the courts of administrative jurisdiction actually stopped administering justice in the occupied territory. Some of the cases, the proceedings in which had been already started, became a part of other courts' jurisdiction, and cases that had already been heard by the courts of first instance, were supposed to be appealed in accordance with the procedural legislation of the Russian Federation, that means to the Sevastopol Commercial Court of Appeal, the North Caucasus District Military Court or the Court of Appeal of the city of Sevastopol or the Court of Appeal of Crimea.

During the first months after the "accession of Crimea," many applicants walked "in circles," because both district administrative courts and general courts refused to accept their applications. As for the cassation appeals against court decisions that have come into legal force, they could be lodged to the Judicial Chamber of the Supreme Court of the Russian Federation on Administrative Cases within three months.

Some confusion also occurred with the right to appeal to the Supreme Court of the Russian Federation against court decisions that came into legal force, guaranteed by Article 9 of the Law on the Accession. Many parties tried to seize this opportunity in spite of the fact that they had filed cassation appeals earlier to the High Courts of Ukraine. At the same time, part of the cases was sent to these instances before the occupation began, which

made it impossible to review cassation complaints filed to the Supreme Court of the Russian Federation. On the other hand, many cassation appeals received by the High Courts of Ukraine still have not been considered due to the fact that the Crimean courts refused to send up the case files to them after the Law on the Accession came into force.

Notable characteristic of legal proceedings in the occupied territories of the Autonomous Republic of Crimea and the city of Sevastopol during the transitional period was that it did not provide for the possibility of the so-called "first cassation" for all types of court proceedings (with the exception of the cases of administrative offenses), that is, the possibility of lodging a cassation appeal against judicial decisions that have come into legal force to the Presidiums of the respective courts - the Court of Appeal of the city of Sevastopol, the Court of Appeal of the Republic of Crimea and the Sevastopol Commercial Court of Appeal. This was explained with the fact that until the creation of a new court system in the occupied territory and the appointment of judges in the manner stipulated by Russian law, the Supreme Court of the Russian Federation could not form the Presidiums in these courts.

Item 21 of Article 9 of the Law 6-FKZ also stipulated that the support of the courts and the execution of court decisions during the transitional period should be carried out in accordance with the legislation of the Russian Federation.

In order to support the operation of the courts, instead of the territorial departments of the State Judicial Administration of Ukraine in the Autonomous Republic of Crimea and the city of Sevastopol, the Administrations of the Judicial Department in the Republic of Crimea[81] and in the city of Sevastopol[82], were created under the orders of the Judicial Department of the Supreme Court of the Russian Federation of March 28, No. 71 and 72, respectively.

By the order of the Judicial Department of the Supreme Court of the Russian Federation of June 20, 2014 No. 419-l / Mr. Akuiev Kerim Gadzhikurbanovich[83], who formerly held the position of the head of the administration of the Judicial Department in the Tver Region of the Russian Federation, was appointed to the position of the head of the administration of the Judicial Department in the Republic of Crimea[84].

A month later, by order No. 581-l /s of August 6, 2014, the duties of the head of the administration of the Judicial Department in the city of Sevastopol were entrusted to Mr. Margasov Vladimir Anatolievich[85], who formerly worked as the deputy head of the administration - the head of the department for the prevention of corrupt and other offenses of the administration of public service and staffing of the Judicial Department at the Supreme Court of the Russian Federation[86].

On June 23, 2014, President V. Putin signed:

- The Federal Law N° 154-FZ "On the Creation of Courts of the Russian Federation in the Territories of the Republic of Crimea and the Federal City of Sevastopol and on Amending Certain Legislative Acts of the Russian Federation"[87] and

- The Federal Constitutional Law of June 23, 2014 No. 10-FKZ "On the Creation of the Twenty-first Arbitration Court of Appeal and on Amending the Federal Constitutional

81 http://docs.cntd.ru/document/420207047
82 http://docs.cntd.ru/document/420207046
83 http://usd.krm.sudrf.ru/modules.php?name=press_dep&op=1&did=15
84 https://tver.bezformata.com/listnews/sudebnogo-departamenta-v-tverskoj/21894082/
85 http://usd.sev.sudrf.ru/modules.php?name=press_dep&op=1&did=6
86 http://docs.cntd.ru/document/499024167
87 http://pravo.gov.ru/proxy/ips/?docbody=&nd=102353831&rdk=0

Law "On the Arbitration Courts in the Russian Federation"[88].

These laws regulated the creation of judicial system in the occupied territories, which will be described later in this chapter.

In accordance with Article 2 of the Law No. 154-FZ and Article 3 of the Law No. 10-FKZ, the decision regarding the commencement day of the courts shall be made by the Plenum of the Supreme Court of the Russian Federation after the appointment of two thirds of the number of judges of the relevant court, established by the law.

- The Federal Law No. 155-FZ "On the Bodies of the Judicial Community of the Republic of Crimea and the Federal City of Sevastopol", which determined the peculiarities of the formation of councils of judges, qualification boards of judges and examination commissions for administering of qualification exam for a judicial office[89].

- The Federal Law No. 156-FZ "On the Procedure for the Selection of Candidates for the Initial Composition of Federal Courts Created in the Territory of the Republic of Crimea and the Federal city of Sevastopol"[90], which established the procedure for the selection of candidates, vesting them with powers of judges of federal courts, and appealing against decisions of the Higher Qualification Board of Judges of the Russian Federation and the High Examination Commission for the administering of the qualification exam to the position of judge.

After the adoption of these laws, the Higher Qualification Board of Judges of the Russian Federation was able to begin the process of selection and appointment of court chairpersons, their deputies and judges.

The need for the adoption of these laws was caused by the fact that, in accordance with Russian law, the matters of qualification exams and giving conclusions on recommendations for filling vacant positions of judges belonged to the competence of regional bodies of the judicial community, which could be consisted only from persons with the status of a judge (it was emphasized above that those Ukrainian judges who joined the service of the Russian Federation did not have the status of a judge and were called "persons acting in the positions of judges").

For the same reason, competition for filling vacant position of court chairpersons, their deputies and judges during the transitional period were announced and held by the High Qualification Board of Judges of the Russian Federation. The High Qualification Board of Judges announced the first one among such competitions on July 2, 2014[91], and the second one - on December 04 of the same year[92]. After that, the power to conduct qualification exams and give conclusions on recommending candidates for filling the vacant judicial positions passed to the Qualification Board of Judges of the Republic of Crimea and the city of Sevastopol, which were formed at the conferences of judges on March 17[93] and March 19, 2015, respectively[94]. On the same dates, examination commissions of judges were formed to conduct the qualification exams for the judicial positions.

During the selection process for judicial offices, many applicants noted the lack of transparency and clarity of the selection rules and criteria, which primarily refers to such

88 https://rg.ru/2014/06/25/sud-dok.html
89 http://www.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW; n=164497; dst=0;ts=F3CDCE22834F9FFB67495CFA6D56B9EE; rnd=0.6515133357780456#007305330191932946
90 http://www.consultant.ru/document/cons_doc_LAW_164494/
91 http://usd.krm.sudrf.ru/modules.php?name=press_dep&op=1&did=100
92 http://www.vkks.ru/publication/25184/ http://usd.sev.sudrf.ru/modules.php?name=press_dep&op=1&did=4
93 http://usd.krm.sudrf.ru/modules.php?name=press_dep&op=1&did=100
94 http://usd.sev.sudrf.ru/modules.php?name=press_dep&op=1&did=31

a reason for rejection to appoint a judge as a conflict of interest, the concept of which is not defined in Russian law and is interpreted quite broadly and discretionary by the High Qualification Board of Judges. Often the judges were also not informed of the actual grounds for the rejection to give positive recommendations for the office. For example, while considering materials regarding one of the judges, the High Qualification Board of Judges simply stated in its decision: "After having evaluated the information regarding the applicant and taking into account the opinions of the Deputy Chief Justice of the Supreme Court of the Russian Federation and the Deputy Chairman of the Council of Judges of the Russian Federation, [the Board] by voting decided to refuse the application [...] on the recommendation of the candidate for the office of a judge of the Supreme Court of the Republic of Crimea»[95]. Some applicants who got recommendations of the High Qualification Board of Judges for the appointment for judicial offices were rejected during the last stage by the President of the Russian Federation, and without explanation of the reasons for such a rejection[96].

On December 23, 2014, the Plenum of the Supreme Court of the Russian Federation adopted the Resolution No. 21 "On the day of the commencement of the operation of federal courts in the territories of the Republic of Crimea and the Federal City of Sevastopol"[97] setting that day on December 26, 2014.

On the same day, the Plenum adopted the Resolution No. 24 "On the approval of the personnel of the Presidiums of the Supreme Court of the Republic of Crimea, the Sevastopol City Court, the twenty-first Arbitration Court of Appeal, the Arbitration Court of the Republic of Crimea and the Arbitration Court of the city of Sevastopol"[98], which created the possibility of a "first cassation" - filing appeal against court decisions that came into legal force to the Presidium of the Supreme Court of the Republic of Crimea, the Presidium of the Sevastopol City Court and the Presidium of the twenty-first Arbitration Court of Appeal.

THE FUNCTIONING OF THE NEW JUDICIAL SYSTEM - FROM DECEMBER 26, 2014 TILL PRESENT

As it was mentioned above, its own judicial system was created by the Occupying Power on the basis of the Law "On the Creation of Courts of the Russian Federation in the Territories of the Republic of Crimea and the Federal City of Sevastopol and on Amending Certain Legislative Acts of the Russian Federation" of June 23, 2014. After its launch on December 26, 2014, it looked as follows.

Federal courts of general jurisdiction

They replaced local and administrative courts. Federal courts of general jurisdiction are vested with the competence to hear civil, criminal, administrative cases and cases of administrative offenses. They act as the courts of first instance and courts of appeal for the review of court decisions adopted by magistrates' courts.

95 www.vkks.ru/document/16089/download/
96 For more information on the problems of appointing judges during the transitional period, see part 2 of this thematic review.
97 https://rg.ru/2014/12/25/plenum-vs-dok.html
98 http://www.supcourt.ru/documents/own/8403/

On the territory of Crimea, the following courts have been established and are currently functioning:

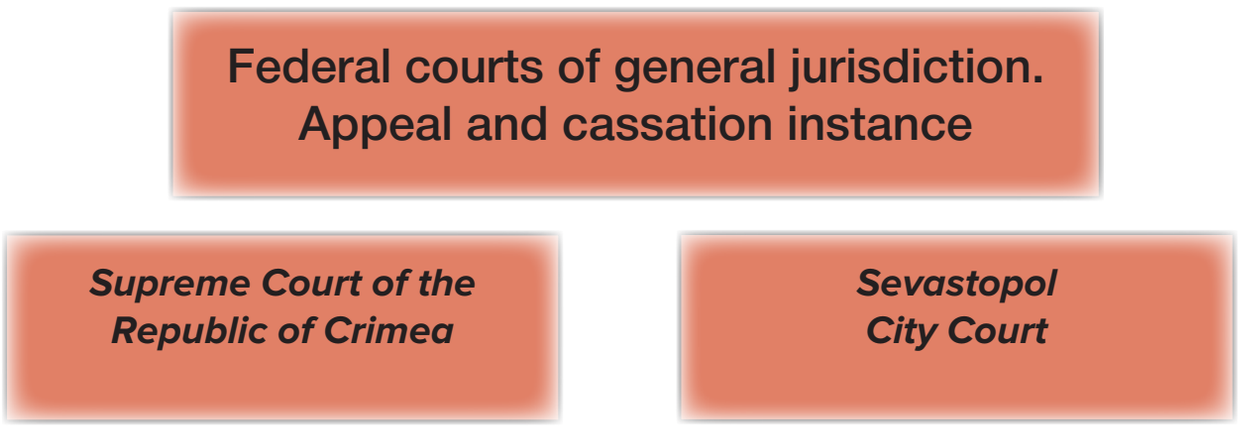
Supreme Court of the Republic of Crimea – court of appeal and cassation, (the functions of the latter are being performed by the Presidium) for the review of court decisions adopted by district and city courts, as well as by magistrates' courts.

24 district and city courts – first instance courts and courts of appeal against court decisions adopted by magistrates' courts – *see diagram below*

On the territory of the city of Sevastopol, the following courts have been established and are currently functioning:

Sevastopol City Court – court of appeal and cassation, (the functions of the latter are being performed by the Presidium) for the review of court decisions adopted by district and city courts, as well as by magistrates' courts. It may also act as a court of first instance in cases established by law.

4 district and city courts – first instance courts and courts of appeal against court decisions adopted by magistrates' courts – *see diagram below.*



Federal courts of general jurisdiction. First instance – district and city courts

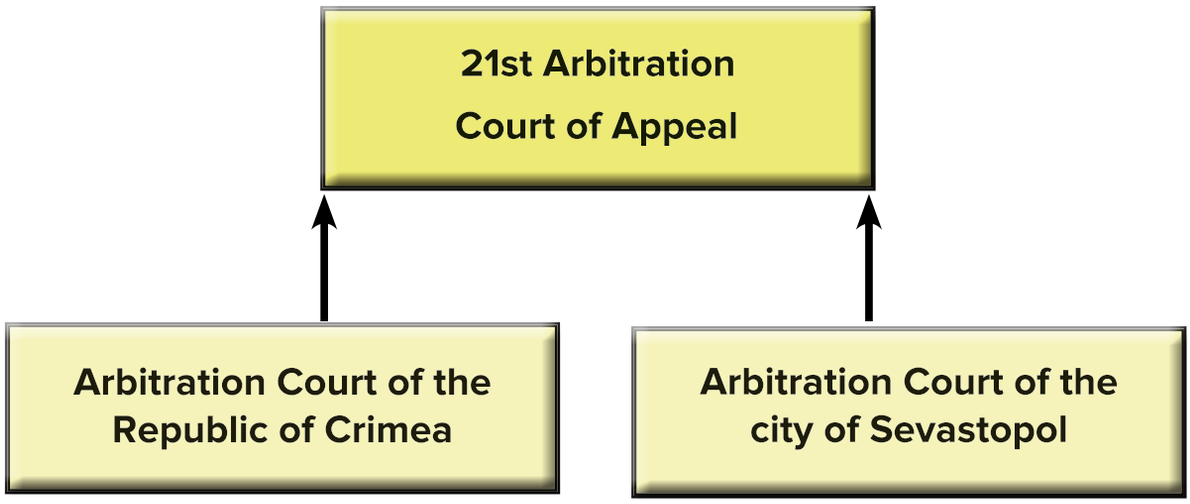
№	Name	Court staff	Location
1	Alushta city court	8	Alushta city, Lenina Str., 23
2	Armyansk city court	3	Armyansk city, Shkolnaya Str., 4
3	Bakhchisaray regional court	9	Bakhchisaray city, Kooperativna Str., 1
4	Belogorsk regional court	6	Belogorsk city, Lunacharskyi Str, 39
5	Dzhankoy city and regional court	13	Dzhankoy city, R. Luxemburg Str., 11.
6	Evpatoria city court	14	Evpatoria city, Lenina Blvd., 30.
7	Kerch city court	17	Kerch city, Sverdlova Str, 4
8	Kirovskyi regional court	5	Kirovskoye urban village, R. Luxemburg Str., 25
9	Krasnogvardeiskyi regional court	7	Krasnogvardeiskoe urban village, Chkalova Str., 6
10	Krasnoperekopsk city and regional court	8	Krasnoperekopsk city, General Zakharov Str., 3-a.
11	Leninsky regional court	8	Lenino urban village, Pushkina Str., 33
12	Nizhnegorsky regional court	5	Nizhnegorsk urban village, Phontannaya Str., 8
13	Pervomaiskyi regional court	3	Pervomaiskoye urban village, Oktiabrskaya Str., 116-a.
14	Razdolnoye regional court	5	Razdolnoye urban village, Lenina str., 44
15	Saky city and regional court	12	Saky city, Lenina str., 19
16	Simferopol regional court	13	Simferopol city, K. Marks Str., 17
17	Sovetskyi regional court	5	Sovetskyi urban village, 30-years-of-Victory Str., 19.
18	Sudak city court	4	Sudak city, Lenina Str., 71
19	Feodosiya city court	13	Feodosiya city, Sverdlova Str., 1
20	Chernomorskyi regional court	4	urban village Chernomorskoye, Kirova Str., 19
21	Yalta city court	16	Yalta city, Dmitrieva Str., 4
22	Zheleznodorozhnyi District Court of Simferopol city	13	Simferopol city, Chromchenko Str., 6-a
23	Kievskyi District Court of Simferopol city.	15	Simferopol city, Vorovskogo Str, 16.
24	Tsentralnyi District Court of Simferopol city.	13	Simferopol city, Turetskaya Str, 2

№	Name	Court staff	Location
1	Balaklavskyi District Court of Sevastopol city	6	Sevastopol city, Kalicha Str., 25
2	Gagarinskyi District Court of Sevastopol city	12	Sevastopol city, Vakulenchuka Str., 3
3	Leninskyi District Court of Sevastopol city	15	Sevastopol city, Lenina Str., 31
4	Nakhimovskyi District Court of Sevastopol city	10	Sevastopol city, Admirala Makarova Str., 9

Arbitration Courts

Became a replacement for commercial courts and partially administrative courts. Arbitration courts are vested with the competence to resolve economic disputes as well as administrative disputes in which parties are legal entities or individual entrepreneurs and state bodies.

According to this law, the following courts were created:



Military courts

Prior to the uccupation, there were no military courts on the territory of the peninsula. They act as courts of first instance in civil and administrative cases, related to state secrets, criminal cases assigned to the jurisdiction of this military court by the Criminal-Procedural Code of the Russian Federation, and administrative cases on the compensation for violation of the right to trial within reasonable time or the right for execution of a judicial act within a reasonable time in cases under jurisdiction of garrison military courts.

In accordance with the law the following courts were created:

- Crimean garrison military court (location: city of Simferopol, 8-a Uchebnyi lane) and
- Sevastopol garrison military court (location: city of Sevastopol, st. 7 Geroiev Sevastopolia.).

According to the law, the North Caucasus District Military Court, located on the territory of the Russian Federation in the city Rostov-on-Don (currently renamed the Southern District Military Court) acts as the court of appeal against decisions of the aforementioned courts.

At the time of the occupation of the Crimean peninsula by the Russian Federation, Ukrainian legislation did not provide for the institution of magistrate judges.

The introduction of the institution of magistrate judges by the occupation authorities in Crimea began shortly after the adoption of the Federal Constitutional Law of the Russian Federation of March 21, 2014 No. 6-FKZ "On the Admission to the Russian Federation of the Republic of Crimea and the Formation in the Russian Federation of New Constituent Entities - the Republic of Crimea and the City of Federal Significance of Sevastopol". Part 3 of Article 9 of this law provided for the possibility of creating such courts "at the initiative of the legislative (representative) government body of the Republic of Crimea and the legislative (representative) government body of the city of federal significance of Sevastopol, agreed with the Supreme Court of the Russian Federation".

The occupation authorities also referred to Article 86 of the Constitution of the Republic of Crimea dated April 11, 2014[99] and Article 36 of the Charter of the city of Sevastopol dated April 14, 2014[100].

Creation of court circuits and positions of magistrate judges in occupied Crimea

On August 08, 2014, the State Council of the Republic of Crimea adopted Law No. 61-ZRK "On Magistrate Judges of the Republic of Crimea". It was signed on September 01 and published in the Crimean News newspaper on September 10, 2014. On September 20, 2014, the Law entered into force.

According to the Law, magistrate judges of the Republic of Crimea are judges of the general jurisdiction of the Republic of Crimea and are part of the unified judicial system of the Russian Federation.

The magistrate judge in the first instance considers criminal cases concerning crimes for the commission of which the maximum penalty does not exceed three years in prison; cases on the issuance of a court order; on divorce, if there is no dispute between the spouses about the children, as well as on the division of property jointly acquired by the spouses; property disputes, including the procedure for using property; cases of administrative offenses. Also, in the event of the discovery of new circumstances, the magistrate judges may reconsider cases, decisions on which were taken by them in the first instance and entered into force.

Cases of contesting paternity (motherhood), establishment of paternity, deprivation of parental rights, restriction of parental rights, adoption of a child, other cases of disputes about children and cases of invalidation of a marriage; cases of inheritance of property and cases arising from relations on the creation and use of the results of intellectual activity are excluded from the jurisdiction of magistrate judges.

Cases assigned to the competence of magistrate judges are considered by them individually.

In accordance with the Law, a magistrate judge is appointed by the State Council of the Republic of Crimea on the proposal of the Chairperson of the Supreme Court of the Republic of Crimea, after passing the competition and receiving recommendations from the qualification board of judges of the Republic of Crimea.

Court circuits in Crimea were created after the adoption of the Federal Law of the

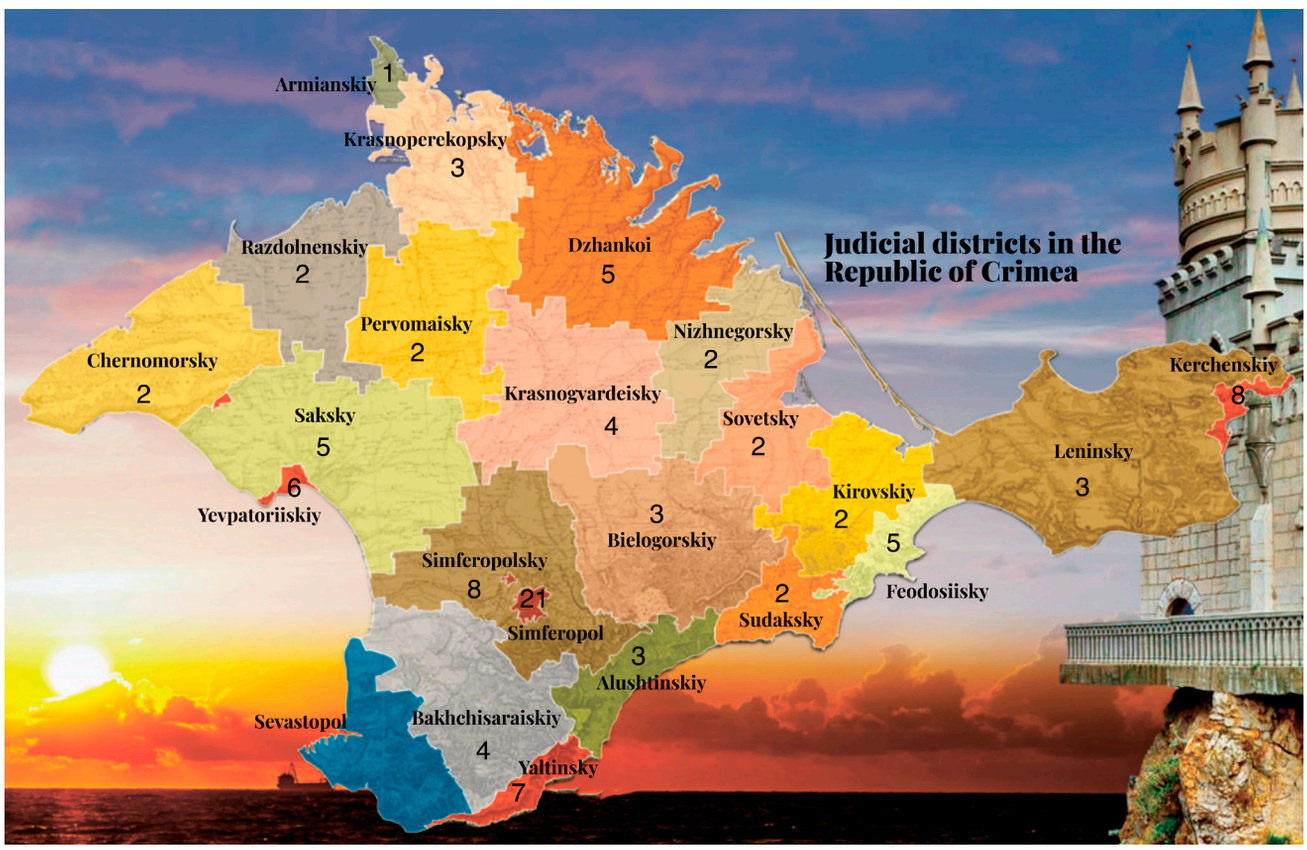
99 http://crimea.gov.ru/content/uploads/files/base/Konstitutsiya.pdf
100 https://rg.ru/2014/05/06/sevastopol-zakon1-reg-dok.html

Russian Federation of June 08, 2015 No. 149-FZ "On Amending Article 1 of the Federal Law "On the Total Number of Magistrate Judges and the Number of Court Circuits in the Constituent Entities of the Russian Federation"[101] and local law No. 162- ZRK/2015 "On the Creation of Court Circuits and the Positions of Magistrate Judges in the Republic of Crimea", which was adopted on October 22, 2015 (signed, published and entered into force on the same day - October 30, 2014)[102]. These laws provided for the creation of 100 magistrates and the introduction of 100 positions of magistrate judges in all regions of Crimea.

The first magistrate judges in the amount of 25 people were appointed to positions by the Resolution of the State Council of the Republic of Crimea[103] No. 1186-1/16 of September 21, 2016[104]. Later, by Decrees No. 1240-1/16 of October 19, 2016[105] and No. 1365-1/16 of December 22, 2016[106], another 25 and 29 magistrate judges were appointed, respectively. Thus, by the time the system of magistrate judges began to function in the occupied territory of the Autonomous Republic of Crimea, out of 100 positions, 21 positions of a magistrate judges remained vacant.

In January 2017, magistrate judges in Crimea began considering cases that were within their competence due to the relevant acts of occupation regulation.

On February 28, 2018, the process of filling the vacant positions of magistrate judges in Crimea was completed.



101 http://pravo.gov.ru/proxy/ips/?docbody=&nd=102063718

102 https://rk.gov.ru/ru/document/show/10954
103 Illegally created body of occupation power in Crimea.
104 crimea.gov.ru/textdoc/ru/7/act/1189.pdf
105 crimea.gov.ru/textdoc/ru/7/act/1240.pdf
106 crimea.gov.ru/textdoc/ru/7/act/1365.pdf

System of Magistrates in the territory of Crimea

1) Zheleznodorozhnyi judicial district of Simferopol city (Zheleznodorozhny district of Simferopol city circuit): 6 magistrates № 1, № 2, № 3, № 4, № 5, № 6;

2) Kievsky judicial district of Simferopol city (Kievsky district of Simferopol city circuit): 9 magistrates № 7, № 8, № 9, № 10, № 11, № 12, № 13, № 14, № 15;

3) Tsentralnyi judicial district of Simferopol city (Tsentralnyi district of Simferopol city circuit): 6 magistrates № 16, № 17, № 18, № 19, № 20, № 21;

4) Alushtinskiy judicial district (city circuit Alushta): 3 magistrates № 22, № 23, № 24;

5) Armianskiy judicial district (city circuit Armiansk): 1 magistrate № 25;

6) Bakhchisaraiskiy judicial district (Bakhchisaraiskiy municipal region): 4 magistrates № 26, № 27, № 28, № 29;

7) Bielogorskiy judicial district (Bielogorskiy municipal region): 3 magistrates № 30, № 31, № 32;

8) Dzhankoi judicial district (Dzhankoi municipal region and city circuit Dzhankoi): 5 magistrates № 33, № 34, № 35, № 36, № 37;

9) Yevpatoriiskiy judicial district (city circuit Yevpatoria): 6 magistrates № 38, № 39, № 40, № 41, № 42, № 43;

10) Kerchenskiy judicial district (city circuit Kerch): 8 magistrates № 44, № 45, № 46, № 47, № 48, № 49, № 50, № 51;

11) Kirovskiy judicial district (Kirovskiy municipal region): 2 magistrates № 52, № 53;

12) Krasnogvardeisky judicial district (Krasnogvardeisky municipal region): 4 magistrates № 54, № 55, № 56, № 57;

13) Krasnoperekopsky judicial district (Krasnoperekopsky municipal region and city circuit Krasnoperekopsk): 3 magistrates № 58, № 59, № 60;

14) Leninsky judicial district (Leninsky municipal region): 3 magistrates № 61, № 62, № 63;

15) Nizhnegorsky judicial district (Nizhnegorsky municipal region): 2 magistrates № 64, № 65;

16) Pervomaisky judicial district (Pervomaisky municipal region): 2 magistrates № 66, № 67;

17) Razdolnenskiy judicial district (Razdolnenskiy municipal region): 2 magistrates № 68, № 69;

18) Saksky judicial district (Saksky municipal region and city circuit Saki): 5 magistrates № 70, № 71, № 72, № 73, № 74;

19) Simferopolsky judicial district (Simferopolsky municipal region): 8 magistrates № 75, № 76, № 77, № 78, № 79, № 80, № 81, № 82;

20) Sovetsky judicial district (Sovetsky municipal region): 2 magistrates № 83, № 84;

21) Sudaksky judicial district (city circuit Sudak): 2 magistrates № 85, № 86;

22) Feodosiisky judicial district (city circuit Feodosia): 5 magistrates № 87, № 88, № 89, № 90, № 91;

23) Chernomorsky judicial district (Chernomorsky municipal region): 2 magistrates № 92, № 93;

24) Yaltinsky judicial district (city circuit Yalta): 7 magistrates № 94, № 95, № 96, № 97, № 98, № 99, № 100.

Creation of court circuits and positions of magistrate judges in occupied Sevastopol

On July 22, 2014, the Legislative Assembly of the city of Sevastopol adopted Law No. 50-ZS "On the Magistrate Judges of the City of Sevastopol". On July 25, it was signed, on July 30, 2014 published in the Sevastopol Izvestia newspaper No. 69-70 (1691), and entered into force on the same day.

According to the Law, magistrate judges of the city of Sevastopol are judges of the general jurisdiction of the constituent entities of the Russian Federation and are part of the unified judicial system of the Russian Federation.

Magistrate judges consider in the first instance civil, administrative and criminal cases referred to their competence by the current legislation.

The court circuits in Sevastopol were created after the adoption of the Law of the city of Sevastopol dated June 26, 2015 No. 158-ZS "On the Creation of Court Circuits and the Positions of Magistrate Judges of the City of Sevastopol", which on June 7, 2018 lost its force in connection with the adoption of the Law of June 19, 2018 No. 427-ZS "On the Creation of the Positions of Magistrate Judges of the City of Sevastopol and Court Circuits in the City of Sevastopol"[107], which entered into force on July 7, 2018.

This law provides for the creation of 21 magistrates and the introduction of 21 magistrate positions in four districts of the city of Sevastopol.

On October 27, 2014, by Decrees of the Legislative Assembly of the city of Sevastopol[108] No. 454[109]–456[110], the first 13 magistrate judges of the city of Sevastopol were appointed to their positions. On December 08, 2015, two more judges were appointed[111].

Since January 2015, 15 magistrate judges began hearing cases.

Thus, by the time the system of magistrates began to function in the occupied territory of the city of Sevastopol, out of 21 positions, 6 positions of the magistrate judges remained vacant.

107 https://sevzakon.ru/view/laws/bank/2018/zakon_n_427_zs_ot_26_06_2018/opublikovanie/
108 Illegally created body of occupation power in the city of Sevastopol.
109 https://sevzakon.ru/assets/files/postanovleniya/p454.pdf
110 https://sevzakon.ru/assets/files/postanovleniya/p466.pdf
111 https://sevzakon.ru/assets/files/postanovleniya/p502.pdf
https://sevzakon.ru/assets/files/postanovleniya/p503.pdf

On November 21, 2017, the process of filling the vacant positions of magistrate judges in the city of Sevastopol was completed.

System of magistrates in the territory of Sevastopol

1) Balaklavsky judicial district of the city of Sevastopol: 3 magistrates No. 1, No. 2, No. 3;

2) Gagarinsky judicial district of the city of Sevastopol: 7 magistrates No. 4, No. 5, No. 6, No. 7, No. 8, No. 9, No. 10;

3) Leninsky judicial district of the city of Sevastopol: 6 magistrates No. 11, No. 12, No. 13, No. 14, No. 15, No. 16;

4) Nakhimovsky judicial district of the city of Sevastopol: 5 magistrates No. 17, No. 18, No. 19, No. 20, No. 21.

Comparative Analysis of the Structure of Judicial Power (Before and After the Occupation)

Analysis of the judicial system in the Autonomous Republic of Crimea and the city of Sevastopol at the time the occupation began (taking into account subsequent changes in the Ukrainian judicial system) and judicial system in the occupied territories created by the Russian Federation in violation of international law and international humanitarian law, allows us to conclude that the latter has significant differences from the Ukrainian one.

The transformation of the Ukrainian judicial system into the Russian one was started by the Russian Federation immediately after the adoption of the decision on the "accession of Crimea" at the legislative level and lasted for a little more than 10 months. During this time:

- the institution of an investigative judge (existing in Ukraine since 2012) was liquidated;
- the activities of administrative courts were terminated;
- military courts were created (that did not exist in the Ukrainian judicial system as of February-March 2014 and do not currently exist);
- the institution of magistrates, not inherent in the Ukrainian judicial system, was introduced, and a system of magistrate justice was created on the peninsula.

The powers of the liquidated administrative courts were "divided" between all jurisdictions: created federal courts of general jurisdiction, arbitration and military courts, magistrates.

After the creation of a system of magistrate judges (courts), district courts performing the same functions as general local courts until March 2104 received new powers that were not characteristic of the latter. They became appellate courts for reviewing court decisions handed down by magistrate judges, whose court circuits are located within the territorial jurisdiction of a particular district court.

Military courts also appeared on the map of the occupied peninsula and aquired the powers to consider cases, which before the occupation were considered in the general local and administrative courts. The peculiarity of the military justice system is that only the courts of first instance operate on the peninsula, the court of appeal - the Southern District Military Court - is located on the territory of the Russian Federation in the city of Rostov-on-Don.

Appeal courts also assumed a new, previously uncharacteristic function - to review their own court decisions (issued by the same courts as courts of appeal) as a court of cassation (the so-called "first cassation"). In the cassation procedure, cases in these courts are considered by the Presidiums of the courts, the personal composition of which is approved by the Plenum of the Supreme Court of the Russian Federation from among the judges of this court of appeal.

The Supreme Court of the Russian Federation located on the territory of the Russian Federation has become the court of last resort for Crimean and Sevastopol courts, which can be appealed to on a condition of successive appeal of court decisions on appeal and in the "first cassation" (with the exception of situations when the court decision was made by the Sevastopol City Court or the Supreme court of Crimea as a court of first instance).

With the transition of the courts to the "rails of Russian justice", the Crimeans again

had the opportunity, long forgotten by them and criticized by the European community, to overturn in a supervisory manner those judicial decisions that entered into force. To date, Russian law grants such a right to the Presidium of the Supreme Court of the Russian Federation.

According to a study conducted by the NGO RCHR, as of November 2019, 20% of judges administering justice in Crimea and the city of Sevastopol are citizens of the Russian Federation. Thus, today in the sovereign territory of Ukraine, in violation of international law, at least 104 foreign citizens administer justice without the consent of Ukraine. The remaining 80% of judges although remaining the citizens of Ukraine nevertheless exercise the functions of a judge in violation of Ukrainian law.

In addition, in the field of criminal justice, the investigation of crimes and the maintenance of charges in courts is carried out by persons, many of whom are also Russian citizens who do not have a mandate from Ukraine to fulfill the powers of an investigator and prosecutor.

In matters of the appointment of judges, as well as in the appointment to administrative positions in the courts significant changes have occurred after the occupation.

The process of selection and appointment of judges in Ukraine provides for participation in the competition, which is announced and conducted by the High Qualification Commission of Judges of Ukraine. The High Qualification Commission of Judges conducts an assessment of the qualifications of applicants (through anonymous testing), assesses its moral, business qualities and integrity (taking into account the opinion of the Public Council of Integrity), after which it makes a decision on issuing a recommendation or refusing to issue a recommendation on the appointment of a judge. After that, the High Council of Justice considers the recommendation of the High Qualification Commission of Judges and makes a decision on whether to submit a proposal on the appointment of a judge to the President of Ukraine, or to refuse to do so. In the case of making a submission on the appointment of a judge to the President of Ukraine, the latter has an obligation to sign the corresponding Decree on the appointment within 30 days, while he does not have the right to question or verify the selection procedure for a judge.

Any actions or inaction of each of the participants in the described process can be appealed by the applicant for the position of a judge in court.

With the establishment of the full control over the peninsula by the Russian Federation and the extension of its own jurisdiction to it, the process of selection and appointment of judges has changed and looks as follows. Competition for filling vacant positions in the courts of the first and appeal instances is announced by the corresponding Qualification Collegium of Judges of the city of Sevastopol or Crimea (the exception was the process of creating Russian courts on the peninsula in the so-called “transition period”, when these functions were performed by the Higher Qualification Collegium of Judges of the Russian Federation) After successfully passing the exam in the corresponding examination commission which administer the qualification examination to the judicial position, the question is considered by the High Qualification Commission of Judges, which either issues a recommendation on the appointment of a judge to a specific court, or refuses to do so. The decision of the qualification collegium of judges on the recommendation of the candidate for the position of judge is sent to the chairperson of the relevant court within 10 days after its adoption. The latter within 20 days after receiving the decision on the recommendation of the citizen to the position of a judge submits, according to the established procedure, a proposal on the appointment of the recommended person to the position of a judge.

Judges of cassation courts of general jurisdiction, courts of appeal of general jurisdiction, arbitration courts of districts, other federal courts of general jurisdiction and arbitration courts are appointed by the President of the Russian Federation on the proposal of the President of the Supreme Court of the Russian Federation, which shall be sent to the President of the Russian Federation no later than 30 days from the date of receipt from the chairperson of the relevant court of the submission on the appointment of a recommended person to the position of a judge.

The President of the Russian Federation may refuse to issue a decree appointing a judge to the position. The possibility of appealing against such a refusal is not explicitly provided for in the legislation of the Russian Federation.

There are also differences in the appointment of judges to administrative positions in the courts - the chairperson, the deputy chairperson.

In accordance with Ukrainian law, they are elected for a three-year term by the general meeting of judges of a particular court from among the judges of that court. In the case of dishonest performance of their duties, or a single gross violation of the law, the chairperson (deputy chairperson) of the court may be prematurely removed from the administrative position by the decision of the general meeting of judges.

Russian laws, the effect of which was extended by the Russian federation to the occupied territory of the Crimean peninsula, stipulate that the obtaining of such positions is subject to an open competition in which judges of any courts of any constituent entity of the Federation can participate.

Chairpersons of district courts and their deputies are appointed by the President of the Russian Federation for a term of six years on the proposal of the President of the Supreme Court of the Russian Federation and if there is a positive opinion of the relevant Qualification Collegium of Judges (Crimea and the city of Sevastopol).

The chairpersons and deputy chairpersons of the Supreme Court of Crimea and the Sevastopol City Court are appointed by the President of the Russian Federation for a term of six years on the proposal of the President of the Supreme Court of the Russian Federation and if there is a positive opinion of the Higher Qualification Collegium of Judges of the Russian Federation.

Deputy Chairperson of the Supreme Court of the Republic, provincial, regional court, court of a city of federal significance, court of an autonomous region, court of an autonomous circuit are appointed by the President of the Russian Federation for a term of six years on the proposal of the Chairperson of the Supreme Court of the Russian Federation and if there is a positive opinion of the Higher Qualification Collegium of Judges of the Russian Federation.

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The publication is aimed at representatives of international organizations, diplomatic missions, government bodies and professional legal community, who need information on the practical application of international human rights standards under occupation of the Crimea.

CRIMEA BEYOND RULES

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Issue 4. Information occupation.
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Issue 5. Occupied Justice. Part 1
Issue 5. Occupied Justice . Part 2 (to be published)

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