



Supreme  
Court

# The Administration of Justice Under Martial Law

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Judge

Singapore  
October 13, 2023

Kyiv-born Israeli Prime Minister Golda Meir once said:

“We intend to remain alive. Our neighbors want to see us dead. This is not a question that leaves much room for compromise”.



The war in Ukraine is a war in general for values: life, democracy, freedom. Ukraine is fighting for the values of freedom and democracy.

We do this sincerely and believe that we must protect everything for the sake of the future of our children, who must also be protected today.

No one chooses goals anymore. Children die, dozens die, unfortunately. Therefore, we have something to defend. We defend our right to live.

(In an interview of the President of Ukraine with CNN and Reuters in 2022).

## Justice in martial law

- Justice in the territory where martial law has been implemented is carried out only by courts. Justice has not stopped since the start of the full-scale invasion
- In this area courts established in accordance with the Constitution of Ukraine administrate.
- Reduction or acceleration of any forms of judicial proceedings is prohibited.
- In case of impossibility to administer justice by courts operating in the territory where martial law has been enacted, the territorial jurisdiction of court cases or the location of the courts can be changed according to the procedure established by law.
- Establishing of extraordinary or special courts is not allowed.

# The current situation of the judiciary and its functioning under martial law

- 80 of the courts of appeal and local courts do not administer justice
- 122 of court buildings are damaged or completely destroyed
  - 107 premises sustained damage
  - 15 premises are completely destroyed or severely damaged





# The current situation of the judiciary and its functioning under martial law

- **8% (54)** of courts are located in areas temporarily not controlled by the Ukrainian authorities
  - 8 - in the Donetsk region
  - 16 - in the Luhansk region
  - 16 - in the Zaporizhzhia region
  - 14 - in the Kherson region
- **11% (84)** of the courts were stationed in the occupied territories until February, 24 2022
  - 31 - in the Donetsk region
  - 17 - in the Luhansk region
  - 27 - in the Autonomous Republic of Crimea
  - 9 - in the city of Sevastopol

# The current situation of the judiciary and its functioning under martial law

- 17% (135) of courts changed their territorial jurisdiction due to the inability to administer justice during martial law
- 7 % (59) of the total number of courts and 43 % of the courts that changed their territorial jurisdiction have already restored it
- The judiciary lacks 2166 judges
  - Lack of judges in appeal courts – 1357 positions (688 vacant)
  - Sumy appeal court – only 4 judges
  - Kharkiv appeal court – 13 (47 vacant)

# Territories of Ukraine where justice is not administered by courts of general jurisdiction due to the war\*

## THE AUTONOMOUS REPUBLIC OF CRIMEA AND THE CITY OF SEVASTOPOL:

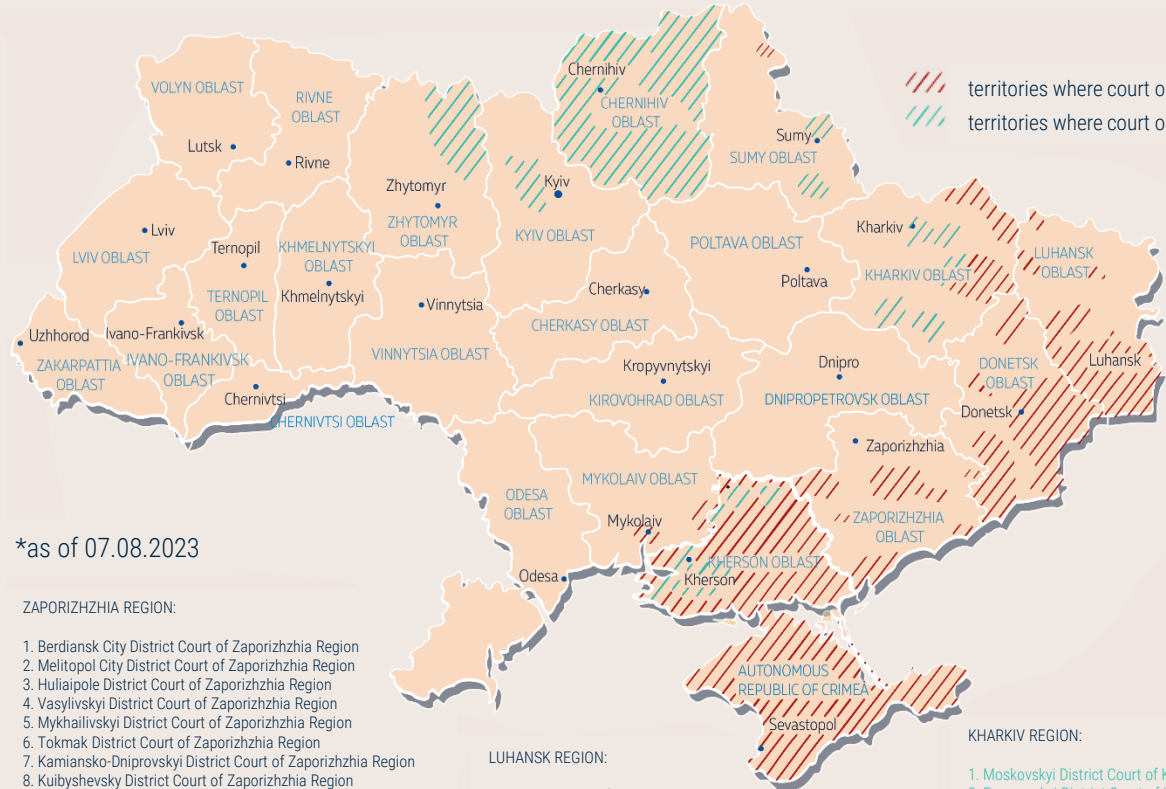
1. Court of Appeal of the Autonomous Republic of Crimea
2. Alushta City Court of the Autonomous Republic of Crimea
3. Armiansk City Court of the Autonomous Republic of Crimea
4. Bahchysarai District Court of the Autonomous Republic of Crimea
5. Bilohirsk District Court of the Autonomous Republic of Crimea
6. Kerch City Court of the Autonomous Republic of Crimea
7. Kirovsky District Court of the Autonomous Republic of Crimea
8. Dzhankoi City District Court of the Autonomous Republic of Crimea
9. Yevpatoria City Court of the Autonomous Republic of Crimea
10. Krasnohvardiiske District Court of the Autonomous Republic of Crimea
11. Krasnoperekopsk City District Court of the Autonomous Republic of Crimea
12. Leninskyi District Court of the Autonomous Republic of Crimea
13. Nyzhnohirskiy District Court of the Autonomous Republic of Crimea
14. Pervomaiske District Court of the Autonomous Republic of Crimea
15. Rozdolnenskyi District Court of the Autonomous Republic of Crimea
16. Saki City District Court of the Autonomous Republic of Crimea
17. Yalta City Court of the Autonomous Republic of Crimea
18. Sovetskyi District Court of the Autonomous Republic of Crimea
19. Sudak City Court of the Autonomous Republic of Crimea
20. Feodosia City Court of the Autonomous Republic of Crimea
21. Zaliznychnyi District Court of Simferopol
22. Kyiv District Court of Simferopol
23. Central District Court of Simferopol
24. Simferopol District Court of the Autonomous Republic of Crimea
25. Chornomorsk District Court of the Autonomous Republic of Crimea
26. Sevastopol Court of Appeal
27. Balaklava District Court of Sevastopol
28. Gagarinskyi District Court of Sevastopol
29. Leninskyi District Court of Sevastopol
30. Nakhimovskiy District Court of Sevastopol
31. Sevastopol Administrative Court of Appeal
32. District Administrative Court of the Autonomous Republic of Crimea
33. Sevastopol District Administrative Court
34. Sevastopol Commercial Court of Appeal
35. Commercial Court of the Autonomous Republic of Crimea
36. Commercial Court of Sevastopol

## DONETSK REGION:

1. Volnovakha District Court of Donetsk Region
2. Volodarskyi District Court of Donetsk Region
3. Donetsk Court of Appeal
4. Zhovtnevyi District Court of Mariupol
5. Illichivskiy District Court of Mariupol
6. Ordzhonikidze District Court of Mariupol
7. Primorskyi District Court of Mariupol
8. Pershotravnevyi District Court of Donetsk Region
9. Krasnolymansk City Court of Donetsk Region
10. Kramatorsk City Court of Donetsk Region
11. Vuhledar City Court of Donetsk Region
12. Krasnoarmiisk City District Court of Donetsk Region
13. Novohrodivka City Court of Donetsk Region
14. Artemivsk City District Court of Donetsk Region

## ZHYTOMYR REGION:

1. Brusyliv District Court of Zhytomyr Region
2. Malyn District Court of Zhytomyr Region
3. Ovruch District Court of Zhytomyr Region



\*as of 07.08.2023

## ZAPORIZHZHIA REGION:

1. Berdiansk City District Court of Zaporizhzhia Region
2. Melitopol City District Court of Zaporizhzhia Region
3. Huliaipole District Court of Zaporizhzhia Region
4. Vasylyvskiy District Court of Zaporizhzhia Region
5. Mykhailivskiy District Court of Zaporizhzhia Region
6. Tokmak District Court of Zaporizhzhia Region
7. Kamiansko-Dniprovskiy District Court of Zaporizhzhia Region
8. Kuibyshevskiy District Court of Zaporizhzhia Region
9. Polohivskiy District Court of Zaporizhzhia Region
10. Pryazovskiy District Court of Zaporizhzhia Region
11. Prymorskyi District Court of Zaporizhzhia Region
12. Chernihiv District Court of Zaporizhzhia Region
13. Enerhodar City Court of Zaporizhzhia Region
14. Yakymivskiy District Court of Zaporizhzhia Region
15. Veselivskiy District Court of Zaporizhzhia Region
16. Rozivskiy District Court of Zaporizhzhia Region
17. Velykobilozerskyi District Court of Zaporizhzhia Region
18. Orikhivskiy District Court of Zaporizhzhia Region

## KYIV REGION:

1. Borodianskyi District Court of Kyiv Region
2. Ivankiv District Court of Kyiv Region
3. Irpin City Court of Kyiv Region
4. Makariv District Court of Kyiv Region

## SUMY REGION:

1. Commercial Court of Sumy Region
2. Seredyna-Buda District Court of Sumy Region
3. Trostianets District Court of Sumy Region
4. Okhtyrka City District Court of Sumy Region

territories where court operations have been suspended

territories where court operations have been resumed

## CHERNIHIV REGION:

1. Chernihiv Court of Appeal
2. Desnianskyi District Court of Chernihiv City
3. Novhorod-Siverskyi District Court of Chernihiv Region
4. Novozavodsky District Court of Chernihiv City
5. Korop District Court of Chernihiv Region
6. Koriukivka District Court of Chernihiv Region
7. Mensk District Court of Chernihiv Region
8. Sosnytsia District Court of Chernihiv Region
9. Gorodnya District Court of Chernihiv Region
10. Ripky District Court of Chernihiv Region
11. Chernihiv District Court of Chernihiv Region
12. Shchorskyi District Court of Chernihiv Region
13. Bobrovysia District Court of Chernihiv Region
14. Nosivka District Court of Chernihiv Region
15. Bakhmach District Court of Chernihiv Region
16. Borznianskyi District Court of Chernihiv Region
17. Nizhyn City District Court of Chernihiv Region
18. Pryluky City District Court of Chernihiv Region
19. Varva District Court of Chernihiv Region
20. Ichnia District Court of Chernihiv Region
21. Sribne District Court of Chernihiv Region
22. Talalaivka District Court of Chernihiv Region
23. Kozelets District Court of Chernihiv Region
24. Kulykivka District Court of Chernihiv Region
25. Commercial Court of Chernihiv Region
26. Semenivka District Court of Chernihiv Region

## LUHANSK REGION:

1. Luhansk Court of Appeal
2. Bilovodsk District Court of Luhansk Region
3. Bilokurakyno District Court of Luhansk Region
4. Kreminna District Court of Luhansk Region
5. Lysychansk City Court of Luhansk Region
6. Markivka District Court of Luhansk Region
7. Milovskiy District Court of Luhansk Region
8. Novoaydar District Court of Luhansk Region
9. Novopostol District Court of Luhansk Region
10. Popasna District Court of Luhansk Region
11. Rubizhne City Court of Luhansk Region
12. Svatove District Court of Luhansk Region
13. Sievierodonetsk City Court of Luhansk Region
14. Stanychno-Luhansk District Court of Luhansk Region
15. Starobilsk District Court of Luhansk Region
16. Troitsk District Court of Luhansk Region

## MYKOLAIV REGION:

1. Snihurivka District Court of Mykolaiv Region
2. Commercial Court of Mykolaiv Region
3. Berezneuhuvate District Court of Mykolaiv Region

## KHARKIV REGION:

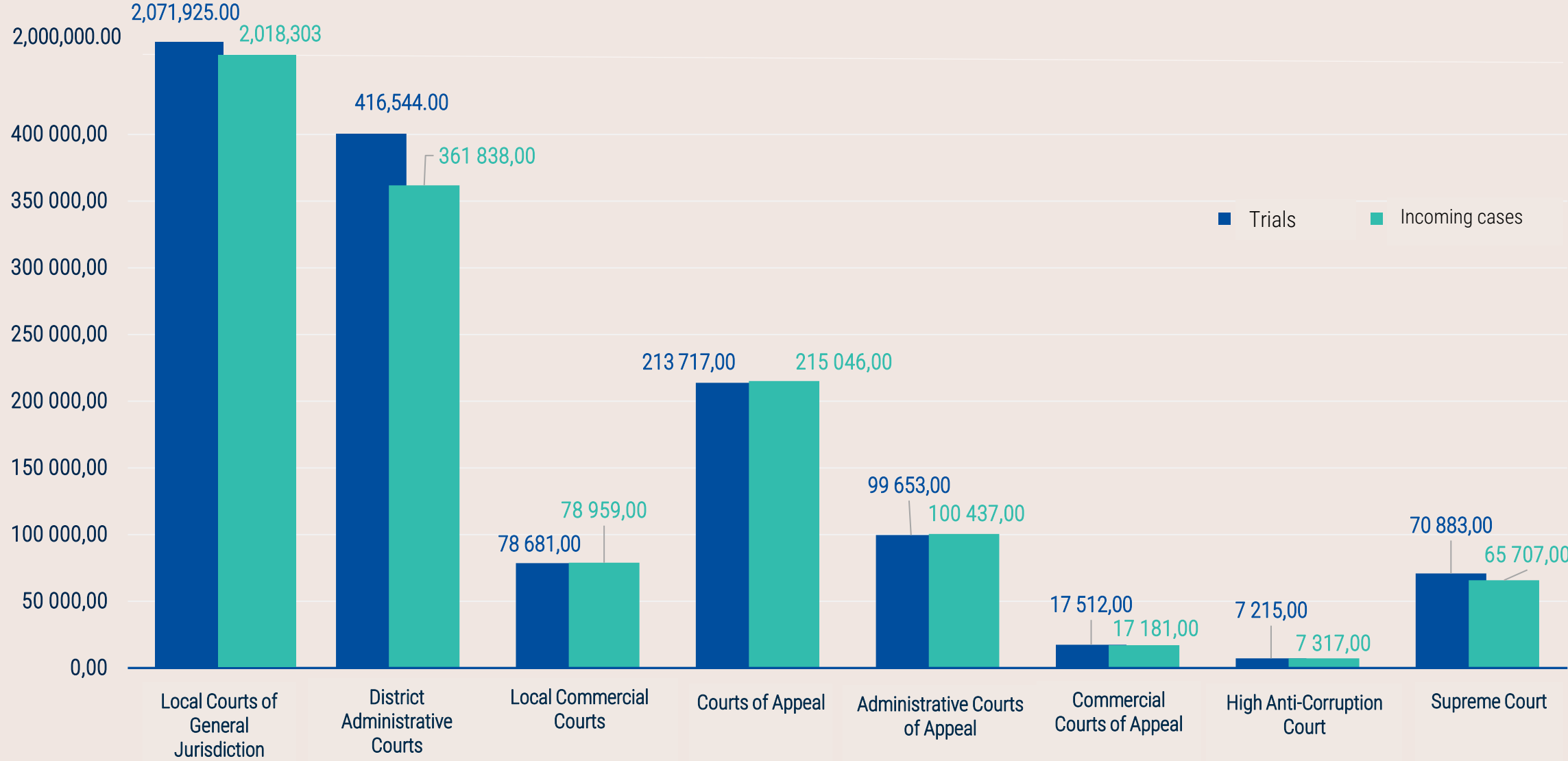
1. Moskovskiy District Court of Kharkiv
2. Frunzenskyi District Court of Kharkiv
3. Velykoburlutskiy District Court of Kharkiv Region
4. Vovchanskyi District Court of Kharkiv Region
5. Dvorianskyi District Court of Kharkiv Region
6. Pechenizkyi District Court of Kharkiv Region
7. Kharkiv District Court of Kharkiv Region
8. Chuhuiv City Court of Kharkiv Region
9. Kominternivskiy District Court of Kharkiv
10. Chervonozavodskiy District Court of Kharkiv
11. Izium City District Court of Kharkiv Region
12. Leninskyi District Court of Kharkiv
13. Ordzhonikidze District Court of Kharkiv
14. Shevchenkovskiy District Court of Kharkiv Region
15. Zolochiv District Court of Kharkiv Region
16. Sakhnovshchyna District Court of Kharkiv Region
17. Borivskiy District Court of Kharkiv Region
18. Dergachiv District Court of Kharkiv Region
19. Balakliia District Court of Kharkiv Region
20. Kupiansk City District Court of Kharkiv Region
21. Kharkiv Court of Appeal
22. Blyzniukivskiy District Court of Kharkiv Region
23. Lozova City District Court of Kharkiv Region
24. Barvinkivskiy District Court of Kharkiv Region

## KHERSON REGION:

1. Kherson Court of Appeal
2. Beryslav District Court of Kherson Region
3. Bilozerka District Court of Kherson Region
4. Velyka Lepetykha District Court of Kherson Region
5. Velyka Oleksandrivka District Court of Kherson Region
6. Verkhni Rogachyk District Court of Kherson Region
7. Vysokopillya District Court of Kherson Region
8. Henichesk District Court of Kherson Region
9. Hola Prystan District Court of Kherson Region
10. Homostaiivka District Court of Kherson Region
11. Ivanivka District Court of Kherson Region
12. Kalanchak District Court of Kherson Region
13. Kakhovka City District Court of Kherson Region
14. Nyzhni Sirohozy District Court of Kherson Region
15. Novovorontsovka District Court of Kherson Region
16. Nova Kakhovka City Court of Kherson Region
17. Novotroitske District Court of Kherson Region
18. Skadovsk District Court of Kherson Region
19. Kherson City Court of Kherson Region
20. Tsiurupinsk District Court of Kherson Region
21. Chaplynka District Court of Kherson Region
22. Commercial Court of Kherson Region
23. Kherson District Administrative Court

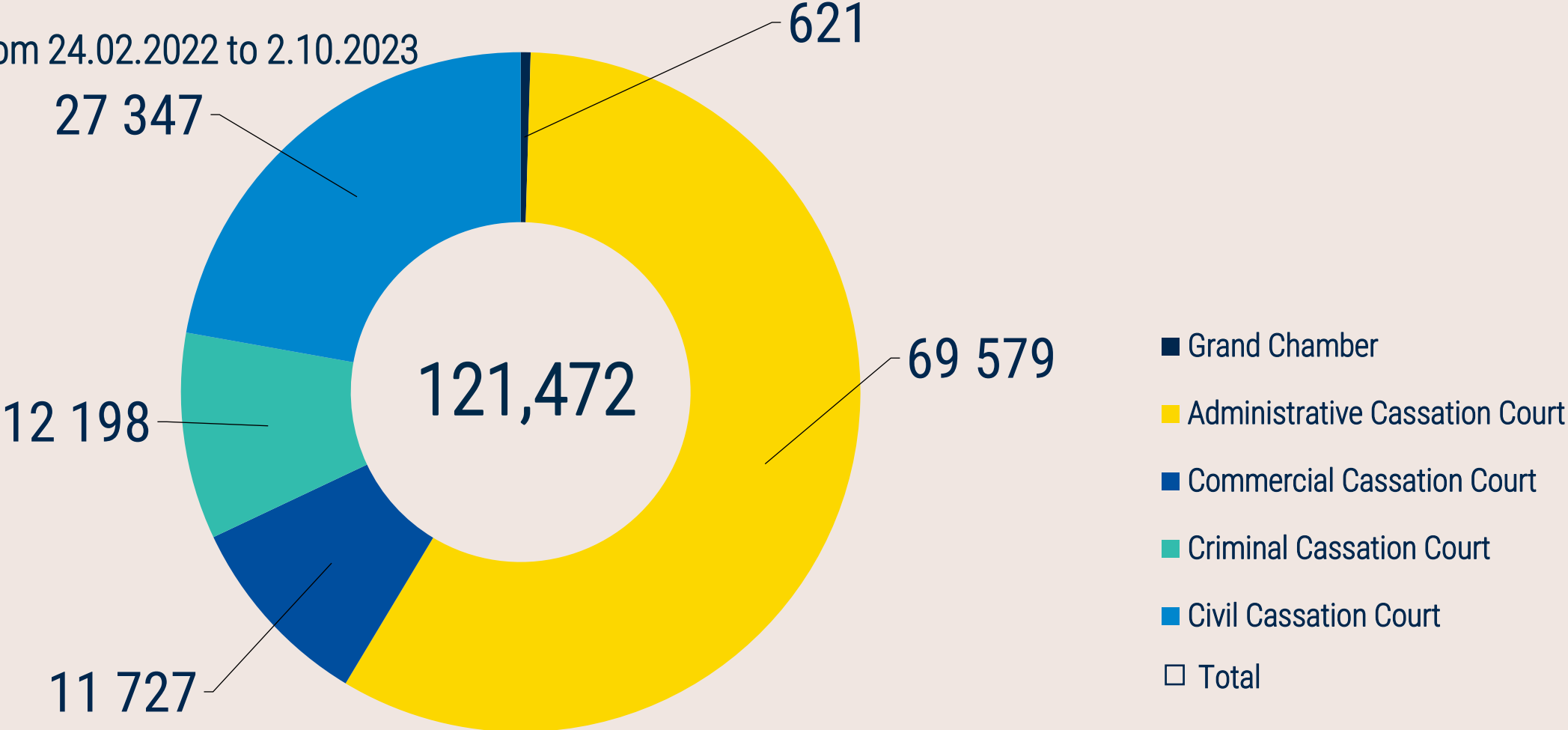


# Incoming cases and trials in 2022



# Review of procedural complaints and cases by the Supreme Court

from 24.02.2022 to 2.10.2023



# Current status and outlook of trials for war crimes and crimes against national security

# Incoming criminal proceedings on war crimes and crimes against national security and their consideration from 24.02.2022 to 2.10.2023

Article	Incoming	Resolved	Pending
Trespassing against the territorial integrity and inviolability of Ukraine ( <a href="#">Article 110 of the Criminal Code of Ukraine</a> )	634	239	395
High treason ( <a href="#">Article 111 of the Criminal Code of Ukraine</a> )	1,629	544	1085
Collaboration ( <a href="#">Article 111-1 of the Criminal Code of Ukraine</a> )	2,384	889	1,495
Aiding and abetting the aggressor state ( <a href="#">Article 111-2 of the Criminal Code of Ukraine</a> )	147	20	127
Sabotage ( <a href="#">Article 113 of the Criminal Code of Ukraine</a> )	9	4	5
Propaganda of war ( <a href="#">Article 436 of the Criminal Code of Ukraine</a> )	19	16	3
Production and distribution of communist, Nazi symbols and propaganda of communist and national socialist (Nazi) totalitarian regimes ( <a href="#">Article 436-1 of the Criminal Code of Ukraine</a> )	186	143	43
Justification, recognition of legitimacy, denial of the armed aggression against Ukraine, glorification of its participants ( <a href="#">Article 436-2 of the Criminal Code of Ukraine</a> )	977	757	220
Planning, preparation and waging of an aggressive war ( <a href="#">Article 437 of the Criminal Code of Ukraine</a> )	4	0	4
Violation of rules of the warfare ( <a href="#">Article 438 of the Criminal Code of Ukraine</a> )	154	44	110

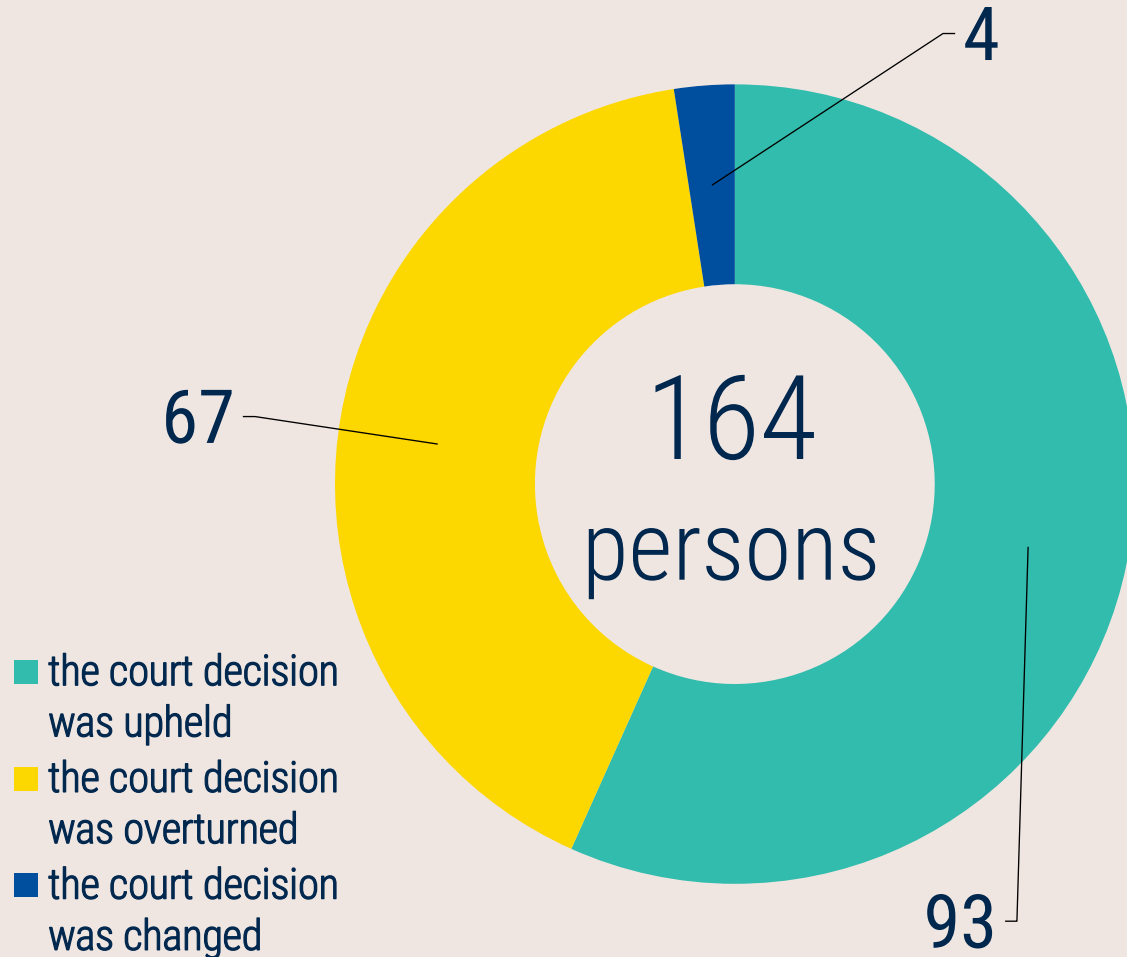
# Main forms of warfare rules violations

(Article 438 of the Criminal Code of Ukraine)

- ill-treatment of civilians in the form of premeditated murder, death threats; torture, violence, sexual violence, illegal deprivation of liberty; abduction of a person (children), forcing protected persons to serve in the armed forces of the occupying power;
- robbery of civilians;
- illegal destruction of civilian property.



# Cassation review of criminal proceedings on corruption-related criminal offences in the 1st half of 2023



# Important legal positions of the Supreme Court on the protection of the rights of citizens during the martial law period

# The administrative courts have seen an increase in the number of disputes related to:

- ✓ the exercise of the rights of internally displaced persons, in particular the granting of this status and the right to financial assistance for living expenses;
- ✓ registration and re-registration of the unemployed and payment of unemployment benefits for the period of martial law;
- ✓ payments of one-off financial assistance to family members in the event of the death of a serviceman during martial law;
- ✓ the mobilisation of citizens for military service;
- ✓ expropriation of property, including vehicles for the needs of the Armed Forces of Ukraine.

## Since the start of the full-scale invasion, the Supreme Court has been faced with new jurisdictional disputes over the following:

- ? Can the courts resolve disputes where the state-aggressor is the defendant?
- ? Do courts have jurisdiction to consider disputes challenging decisions of military commanders on the compulsory alienation or seizure of property under the legal regime of martial law?
- ? Is employer responsible for the death of the employee?
  
- Local courts are dealing with a large number of claims for damages caused by the military aggression of the state-aggressor. This raises issues of evidence and remedies in this category of disputes.

# Special features of procedural law application in the context of military operations

- extension of procedural deadlines as a result of the imposition of martial law throughout Ukraine and assessment of the gravity of the violation of such deadlines;
- adjournment of a hearing in connection with the announcement of an air raid alert (The vast majority of court premises are not equipped by shelters in which court can continue hearings during an air alarm. Court hearing are interrupted during an air alarm, the parties in such cases usually leave the court premises and the court has to postpone the trial);
- suspension of proceedings due to the fact that a party to the case is a member of the Armed Forces of Ukraine (In accordance with the Civil Procedure Code, the court must stop the proceedings in case if a party is in the Armed Forces of Ukraine during martial law);
- on the possibility of considering a cassation appeal in the absence of a party's representative - a lawyer who is outside Ukraine during the period of martial law in Ukraine.



## The Supreme Court has developed case law on offences against the foundations of Ukraine's national security, public safety and peace, human security and international law and order:

- ✓ on sentencing for the commission of an offence under part 1 of article 111-1 "Collaboration" of the Criminal Code of Ukraine;
- ✓ on the presence of signs of one of the circumstances excluding the criminal unlawfulness of the act in the actions of a person who kept firearms, ammunition and explosive devices obtained after the proclamation of martial law in Ukraine to repel the armed aggression;
- ✓ on the qualification of the perpetrator's actions under parts 1, 2 of Article 436-2 of the Criminal Code of Ukraine "Justification, recognition of legality, denial of the armed aggression against Ukraine, glorification of its participants".

## The Supreme Court has formulated important legal positions in resolving civil disputes

- ✓ on the immunity of the state-aggressor and compensation for damage caused by the armed aggression;
- ✓ on the modification or termination of obligations due to war;
- ✓ on establishing the facts of birth or death during martial law;
- ✓ on taking into account the conditions of martial law when resolving disputes concerning the rights and interests of a child in the territory of another state.

# The Supreme Court ruled on the limited judicial immunity of the state-aggressor

The Supreme Court formulated a conclusion on the judicial immunity of the state-aggressor in the case of compensation for damage caused by the aggressor state



The Civil Cassation Court of the Supreme Court has reiterated its position on the absence of judicial immunity in state-aggressor in such cases and provided additional arguments



The immunity of the state in civil proceedings must pursue a legitimate purposes: compliance of international law, promoting civility and fair relations between states, respect sovereignty of another state.

The special Law of Ukraine provides that a compensation for material and moral damages caused as a result of temporary occupation to the state, legal entities, public associations, Ukrainian citizens, to foreigners and stateless persons relies entirely on the state-occupant. The practical implementation of the above provisions was reflected in a number of court decisions in civil and commercial jurisdiction. However, state-occupant as a rule ignores such disputes (did not participate; did not appeal court decisions).

In April 2022, the Supreme Court concluded that state-aggressor doesn't have judicial immunity in Ukrainian courts, whereas that state committed acts of armed aggression, violated sovereignty and territorial integrity of Ukraine, destroyed building, schools, hospitals and theaters and killed Ukrainian people (Judgment of the Grand Chamber of the Supreme Court, April 14, 2022 in case No. 308/9708/19). The Supreme Court determined that committing such actions, the state-aggressor exceeded the limits of its sovereign rights, guaranteed by Art. 2 of the UN Charter, and violated the plaintiff's (person`s) rights guaranteed by legal provisions.

Judgments of the Supreme Court dated May 18, 2022 in cases No. 428/11673/19 and No. 760/17232/20 Supreme Court confirmed that state-aggressor has no jurisdictional immunity in Ukrainian courts in damages cases. The plaintiff must have an effective access to the court to protect his rights.

Also Supreme Court emphasized that immunity of the state-aggressor contradicts Ukraine's international legal obligations in the sphere of combating terrorism. Having committed an act of aggression against Ukraine, violated all fundamental rules of international law, the aggressor state deprived itself of jurisdictional immunity in Ukrainian courts. It was the aggressive illegal behavior of the state-aggressor, which led to horrible consequences for Ukraine and the Ukrainian people, that became the basis for the Supreme Court's conclusions about limited jurisdictional immunity of that state on the territory of Ukraine in such cases.

So Ukrainian courts have a competence to hear cases for damage caused by the armed aggression (Article 12 of the UN Convention on Jurisdictional Immunities of States and of their property (2004)).



It's quiet difficult to inform the state-aggressor about trial. Any correspondence has been stopped. The state-aggressor denies intermediary postal services of other countries or international bodies.

Ukrainian courts use Internet resources, the national information and telecommunications system.

Relevant messages are published in a special section on the page of the Civil Cassation Court (website of the Supreme Court) on the web portal "Judiciary of Ukraine" with a link to the web address of the court decisions in the Unified State Register of Court Decisions of Ukraine.

Civil Procedural Code provides that lawyers, notaries, public and private bailiffs, arbitration managers, forensic experts, state authorities and other state bodies, local government, other legal entities have to register their electronic offices in the Unified judicial information and telecommunication system, which ensures the exchange of documents.

The court sends documents for registered parties only in e-form, sending them to the e-office of the person who registered their. Party has right to receive a copy of the court decision in paper upon an application.

The judicial system accumulates claims of citizens of Ukraine regarding damages caused by the armed aggression, obtains evidence to prove the facts of their existence and determines their size.

Of course, now it is difficult to predict how such damages will be compensated. So far, there are no effective mechanisms for compensation. We hope that the relevant judgments will be recognized and implemented by foreign courts.

One of the main step is to create a mechanism to notify the defendant about the case and provide a hypothetical possibility of obtaining information about the documents attached to such case.

It`s also important to ensure the participation of lawyers in legal proceedings (representatives of the defendant), to ensure the competitiveness of such legal proceedings.



The Commercial Court of Kyiv settled the claim of owner of the destroyed mall "RETROVILLE" in the city of Kyiv to the state-aggressor for 21 561 390 EUR damages (the judgment December, 22 2022, № 910/10517/22). It was proved a direct involvement of the defendant represented by the Ministry of defense of the aggressor state in launching the missile and attack and impact on the mall. This fact, by the way, was admitted at the briefing of the ministry of defense of the state-aggressor.



The Commercial Court of Kyiv satisfied the claim of the entrepreneur as the owner of the equipment that remained on the temporarily occupied territory of Ukraine, which deprived him the opportunity to realize the right of ownership, the possibility of access to his property, opportunities to take it away and keep it undamaged. As a result, the plaintiff suffered damages 634,395.30 UAH. In this case, guided by the principles of greater probability, of reasonableness and taking into account the evidences court decided that the plaintiff's property was stolen when the city Kherson was under occupation until 11/11/2022 (256 days), (the judgment December, 06 2022, № 914/1552/22).

More than 500 children were killed. More than 1000 were injured, thousands were forcibly displaced. Nearly 1,3 million children migrated and live on the territory of the EU etc. Ukrainian courts admit their jurisdiction in minor`s issues such as custody.

The family situation, especially the conditions in which the child will involve on the territory of Ukraine, must be considered comprehensively, and the court's decision must find the best interests of the child. The security factor is one of the basic. At the same time court should assess all circumstances of the case. Court listens to the child's opinion (when he/she has the opportunity to express it: usually from school age) about his/her desire to live with one of his parents.

The courts of the European Union states have resolved a number of disputes regarding the return of children who have found shelter in the foreign territories. Four court decisions provided the returning of children, in particular from Poland and Germany, to Ukraine (city Vyshneve, Uzhgorod), in 11 cases the child's return was refused, mainly on security grounds. In five cases court approve (Germany, Switzerland, Poland) agreements, which, in particular, provide that the child will stay with the mother abroad until the end of martial law in Ukraine, after that the mother and child will return to Ukraine.





## The Supreme Court

**3** judges and **25** staff members  
serve in the Armed Forces of Ukraine

## The judicial system

**54** judges and **353** staff members  
serve in the Armed Forces of Ukraine

From March 2022 and until the end of martial law, judges have contributed and will be contributing 30-60% of their judicial remuneration to the needs of the Armed Forces of Ukraine



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Supreme  
Court

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Thank you for your attention!