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THE TRANSFORMATION OF THE JUDICIARY IN UKRAINE IN THE PERIOD 1991–2009

1. Introduction. On July 16, 1990, the Supreme Council of the Ukrainian Soviet Socialist Republic at its 12th Meeting adopted the declaration of independence of the Ukrainian Soviet Socialist Republic [1]. Chapter III of this declaration indicated that the state power in the country exercised based is on the division of power into legislative, executive and judicial.

On August 24, 1991, the Supreme Council of the Ukrainian Soviet Socialist Republic adopted a resolution on the proclamation of the independence of Ukraine, which signed was by the Chairperson of the Supreme Council of the Ukrainian Soviet Socialist Republic – L. Kravchuk in the capital of the state – Kyiv.

The first step towards the formation of the judicial system in Ukraine established was in the *Law of Ukraine of 12 September 1991 on the right of inheritance in Ukraine* [3]. Where art. 4 indicated that the state authorities, prosecutor's offices, courts and arbitration courts established under the Constitution of the USSR of 1978 [4] operate in Ukraine until the creation of new state authorities, the Constitution of Ukraine.

The reform of the judiciary in Ukraine can be divided into four stages (periods): the first – in the period 1991–2000, the second – in the period 2001–2009, the third – in the period 2010–2015 and the fourth – after 2016 year.

This article will analyze the transformation of the judicial system in Ukraine in the period 1991–2000 and 2001–2009.

2. Reform of the judiciary in the period 1991–2000 and the judicial self-government. On 28 April 1992, the Verkhovna Rada (Supreme Council of Ukraine) adopted a *Resolution on the concept of judicial and legal reform in Ukraine* [5], which set out the main directions, tasks and prospects for reforming the judicial system in the country.

During 1992, the Supreme Court of Ukraine had to prepare and submit for consideration by the Verkhovna Rada of Ukraine draft legislation on the judiciary, the bar, on amendments to the Code of Criminal Procedure and the Code of Civil Procedure concerning the consideration of cases in the composition of a single court, as well as on the judicial procedure for verifying the legality of the arrest and detention of citizens, including the protection of the right to defend a suspect or accused.

The concept set the task for the council of ministers of Ukraine and the Commission of the Verkhovna Rada of Ukraine on legislation and the rule of law on the preparation of new draft Codes of Criminal Procedure and the Code of Civil Procedure, as well as the Civil Code, the Code of Offenses, the Labor Code and the Economic Code of Ukraine. This concept assumed the proposals on the creation of the Verkhovna Rada of Ukraine – the Institute of legislation and legal reform of Ukraine.

The very name "judicial and legal reform in Ukraine" is a very complex philosophical, social and legal phenomenon, which very related is closely to the "content" of this concept. In turn, such a category of concepts as "reform", "judicial", "legal" – these are general concepts that most reflect their characteristics of properties in relation to the phenomena of the objective world. The basic concept in this complex category of concepts is "reform". In the simple sense of the word from the French *reforme* or from the Latin *reformare*, these are the processing, transformation, transformation or reconstruction of any aspect of social life. That is, under the reform we understand the process of cardinal and often quite long transformations of aspects of social life, state institutions and separate structures. As a rule, reform is a modernization and a change in the form and content of social relations that do not violate the fundamental foundations [6].

As the Ukrainian scientist, J. Shemshuchenko points out, the whole complex of projects aimed at changing the status of the judicial authority and achieving real independence of the judicial system carried is out through certain institutional transformations in the country. It is interesting that academic legal science identifies several directions of judicial and legal reform carried out in the state. The most complicated direction of reform seems to be the one that is associated with the creation of the foundation for the new principles of the ideology of modern society with the formation of a system of values headed by a free and socially active person. Not the last role in this process is discharged namely judicial power [7].

The concept of judicial and legal reform in Ukraine aimed was to make the legal system and the judicial system of Ukraine to lead to socio-economic and political changes that are have become in Ukrainian society after the collapse of the Union of Soviet Socialist Republics. The main objectives of judicial and legal reform in Ukraine are: the reconstruction of the judicial system, the improvement of judicial forms in order to guarantee the independence and independence of the judicial system bodies from the influence of the legislative and executive authorities, the implementation of the idea of democratic justice, the creation of a judicial system guaranteeing the independence of the Judicial for competent consideration, an independent and impartial tribunal.

In the scientific legal literature, *"court"* understood is as a body of state power created to administer justice. This concept understood is also as judicial proceedings [8]. As rightly points out Kivalov S. from time to time the concept of *"court"* identified is with the judgment about anything, evaluation of anything and even for the designation of the university term *"Court in Ukraine"*. Naturally, the adjectives *"judicial"* derived are from the word *"court"*. It is with connected this concept that the concept of *"judicial authority"* [9].

The *"judicial system",* in turn, is a component of the legal system in the state, which means the mode of organization and activity of judicial authorities and the principles of the administration of justice [10].

In the concept in chapter III, indicated it was that in Ukraine they operate:

- Constitutional Court of Ukraine,
- Courts of general jurisdiction,
- Arbitration courts.

The concept also specified that criminal, civil and misdemeanor cases with be dealt in district courts with one judge and in inter-district (district) courts with three judges. On the other hand, the circuit courts should have dealt with cases of serious crimes in the composition of the collegial court and at the same time acted as an appellate instance for district courts

or as a cassation instance for inter-district courts. As regards the Supreme Court of Ukraine, its function was exclusively supervisory and concerned the review of cases on appeal or cassation, depending on the category of cases and in connection with the new circumstances of the case.

The concept indicated that during the formation of the Armed Forces of Ukraine, the Border Guard of Ukraine and the National Guard of Ukraine – in the system of Courts of general jurisdiction will function military courts, and the Superior Court for military courts will be the Judicial College for military affairs of the Supreme Court of Ukraine, which will act as an appellate military garrisons and military districts, including in cases considered with the participation of a jury.

In addition, the concept assumed the creation of administrative courts in Ukraine, the purpose of which will be the consideration of disputes between citizens and state administration bodies. At the district level, the specialization of judges in the consideration of cases arising from administrative and introduces was public disputes. The specialized administrative judicial colleges established were in the district courts that acted as the first judicial instance in certain categories of cases (e.g. electoral law cases) or as the appellate instance for cases dealt with by district courts. A specialized judicial college for administrative matters should also be set up at the level of the Supreme Court of Ukraine, acting in certain categories of cases as an appellate instance (e.g. cases in the field of electoral law) or as a cassation instance for cases dealt with by district courts. Importantly, the concept assumed that during the reform of the judicial system of general jurisdiction of Ukraine should excluded be in a separate branch of the judicial system – administrative courts.

For the consideration of economic issues, the concept assumed the creation in Ukraine at the level of the oblast – economic courts, and the Supreme Economic Court of Ukraine becomes the supreme instance for these courts. According to the concept, appeal colleges also have been should create in the Supreme Court of Ukraine, the Supreme Court of the Autonomous Republic of Crimea (A.R.C.), the district courts and the local court in the capital of the state – Kyiv, and of the Appeal Court of Ukraine should have been created.

On 4 June 1991, the Law on the arbitration court adopted was in Ukraine [11]. In accordance with art. 5 of the Law – in Ukraine was established a system of arbitration courts, namely:

– Supreme Arbitration Court of the Ukrainian Soviet Socialist Republic,

– Arbitration Court of the Autonomous Soviet Socialist Republic of Crimea,

– Regional arbitration courts,

– Arbitration court of the city of Kyiv.

The Supreme Arbitration Court of Ukraine (S.A.C.) consisted of: the President of the court, the first deputy President of court, the deputies of the President and the arbitrators, who acted in the composition – the Plenum of the S.A.C. of Ukraine, the Presidium of the S.A.C. of Ukraine and the arbitration collegiums dealing with economic disputes and reviewing decisions and orders of the arbitration courts (art. 11 of the Law).

As part of the judicial reform in Ukraine, *the Law on the status of judges* adopted was *on 16 December 1992* [12], which established in art. 3.1 that a judge in the administration of justice is independent and subject only to the norms of the legislation and the constitution of Ukraine. The law established the status of judges of the Supreme Court of Ukraine, the Constitutional Court of Ukraine, economic courts of Ukraine and military courts of Ukraine (art. 4), guarantees of independence of judges (art. 11–13), disciplinary liability of judges (art.

31–38), attestation of judges (art. 39-–41) and the material and social security of judges (art. 42–45).

In addition, in order to develop the judicial corps, the law provided for the creation of *Qualification Commissions of Judges* (art. 16), which had the competence to attest judges and bring them to disciplinary responsibility. In accordance with art. 25 of the Law, in order to express the will of judges, of the judicial self-government were created, namely: the Conference of Judges of local courts and of appeal courts, the Assembly of Judges of the Supreme Court of Ukraine, the Assembly of Judges of Supreme Specialized Courts and the Congress of Judges of Ukraine.

The next step in the implementation of judicial and legal reform in Ukraine is the adoption of the *Law of 2 February 1994 on bodies the judicial self-government* [13], which precisely defined the circle of judicial self-government, their competences and tasks. In accordance with art. 1(2) of the Law to the bodies of the judicial self-government were referred: 1) Conference of Judges of the courts of general jurisdiction of the Autonomous Republic of Crimea, 2) Conference of Judges of Regional Courts of Ukraine, 3) Conferences of Judges of the cities of Kyiv and Sevastopol, 4) Conference of Judges of military courts, 5) Assembly of Judges of the Supreme Court of Ukraine, 6) Assembly of Judges of Supreme Arbitration Court of Ukraine, 7) Conferences of Judges of arbitration courts, 8) Congress of Judges of Ukraine.

The tasks of the *Conference of Judges* included: 1) defending the members of the Qualification Committee of Judges (Q.C.J.), 2) discussing questions of application of legislation arising in judicial practice, 3) discussing proposals of judges in issuing clarifications on the application of legislation in the resolution of cases, 4) addressing the Supreme Court of Ukraine with a proposal to submit to the Verkhovna Rada of Ukraine technical security of judicial activities, 5) the protection of delegates to the Congress of Judges of Ukraine and the consideration of other issues arising from the activities of the courts. In accordance with art. 7 (1) of the Law, the Q.C.J. was convened at least once a year on the basis of decisions of the Presidium of the Supreme Court of the A.R.C., the Presidium of the regional courts of Ukraine, the Presidium of local court of Kyiv and the Presidium of local court of Sevastopol.

The supreme body of judicial self-government is the Congress of Judges of Ukraine, which convened was not less than once every 5 years – by a joint decision of the Presidium of the Supreme Court of Ukraine and the Presidium of the Supreme Arbitration Court of Ukraine.

According to art. 15 (2) of the Law, the tasks of the Congress of Judges of Ukraine were: 1) to defend from the total number of judges of courts of general jurisdiction (with the exception of economic courts and military courts) members of the Higher Qualification Commission of Judges of Ukraine (H.Q.C.J. of Ukraine), 2) to defend at the request of delegates of the Congress of Judges of Ukraine members of the Higher Council of Justice of Ukraine (H.C.J. of Ukraine) and judges of the Constitutional Court of Ukraine, 3) methodological assistance and improvement of their qualifications, 4) address to the Plenum of the Supreme Court of Ukraine a request to clarify the application of legislation in the cases, 5) consideration of proposals on organizational and material-technical security of the activities of the courts of Ukraine; 6) consideration of questions related to the implementation of the *Law of Ukraine of December 15, 1992 № 2862-XII on the status of judges* [12].

The Congress of Judges of Ukraine in an open vote elected the Assembly of Judges of Ukraine, which acted

as a judicial self-government body in the period between the Congress of Judges. According to art. 21 (1, 4, 5) of the Law, the tasks of the Assembly of Judges of Ukraine were: 1) resolving issues related to the personnel, financial and material-technical security of courts, 2) social security of judges and members of their families, 3) conducting control over the organization of the activities of courts of general jurisdiction and the implementation of decisions adopted by the Congress of Judges of Ukraine.

On *2 February 1994, the law on qualification commissions of judges, qualification attestation and disciplinary responsibility of judges of courts of Ukraine* adopted was in Ukraine [14]. According to this law, in Ukraine, Qualification Commissions of Judges (Q.C.J.) in local and appellate courts of the Autonomous Republic of Crimea and the regional courts of Ukraine, in the courts of the cities of Kyiv and Sevastopol, in economic courts, in military courts were established, and the Higher Qualification Commission for Judges of Ukraine was established.

The term of service of a member of the Q.C.J. was 5 years (art. 1, 2 of the Law).

In accordance with Article 3 of the law – the Q.C.J. consisted of 11 members, namely: the Chairperson, his deputy and 9 members of the commission. In contrast, the H.Q.C.J. of Ukraine consisted of 13 members: the Chairperson, his deputy and 11 members of the commission. This commission consisted of the following: 6 judges of courts of general jurisdiction, 3 judges of economic courts, 1 judge of military court, 1 person with higher legal education elected by the Verkhovna Rada of Ukraine, 1 person with higher legal education appointed by the minister of justice of Ukraine and 1 person from scientific legal circles.

According to art. 6 of the Law, the tasks of the Qualification Commission of Judges were: 1) to conduct judicial examinations and issue relevant opinions on the preparation of a candidate for a judicial position, 2) to check candidates for the requirements for a judicial position, 3) to issue opinions on the dismissal of judges from their official posts, 4) to issue opinions on the possibility of defending a judge for an indefinite period, 5) to certify judges and assign them a Qualification Class, 6) initiating disciplinary proceedings against judges, 7) bringing judges to disciplinary responsibility, 8) consideration of questions about the termination of the stay of the judge in a state of rest.

It should be noted that decisions or opinions of the Qualification Commission of Judges be appealed by a judge or a candidate for a judicial position – to the Higher Qualification Commission of Judges of Ukraine within 10 days from the date of receipt of such a decision or opinion of the Q.C.J., and decisions on bringing a judge to disciplinary responsibility – within that time – to the Higher Council of Justice of Ukraine. The decision of the H.Q.C.J. of Ukraine and the decision of the H.C.J. of Ukraine was final (art. 12 (1, 6) of the Law).

An important step in the development of the judicial system of Ukraine is the adoption on 28 June 1996 of the first *Constitution of Ukraine* [15], which, in Chapter VIII of the Constitution, entitled "Judiciary" (art. 124-131), established a new judicial system in the Ukrainian state. The article 6 of the Constitution of Ukraine of 1996 introduced the principle of the three-division of state power into legislative, executive and judicial.

The Constitution of Ukraine established the division of courts in the Ukrainian state into two categories: the Constitutional Court of Ukraine and courts of general jurisdiction (art. 124 (3) of the Constitution).

In addition, the constitution established that the judiciary in Ukraine exercised is exclusively by the courts, and the delegation of functions of the courts, as well as the appropriation of these functions by other state bodies or official persons is unacceptable. The Constitution of Ukraine she also specified that the jurisdiction of courts extend to all legal relations arising in the state, and the formation of the system of courts of general jurisdiction in Ukraine built is on the principle of territoriality and specialization.

The Constitution of Ukraine established that the supreme judicial authority in the system of courts of general jurisdiction is the Supreme Court of Ukraine, and in the system of specialized courts – the Supreme Specialized Courts. The Constitution stipulates that in the judicial system of Ukraine there be also of appeal courts. In contrast, the establishment of extraordinary or *special courts* in the state is unacceptable. It should be noted that the Constitution of Ukraine it introduced the principle of the independence and inviolability of judges in the administration of justice and their subordination only to the rules of Law (art. 125 (2, 5), art. 126 (1) and art. 129 (1) of the Constitution of Ukraine).

On *16 October 1996, the Law on the Constitutional Court* [16] adopted was in Ukraine, which defined the status of this institution in the state and established this body as the only one in the constitutional jurisdiction of Ukraine. According to art.5 of this law, the Constitutional Court of Ukraine consists of 18 judges, including 6 judges appointed by the president of Ukraine, 6 judges – by the Verkhovna Rada of Ukraine and the remaining 6 judges – by the Congress of Judges of Ukraine. The law also established that the judge of the Constitutional Court of Ukraine appointed is for a term of 9 years without the right to re-occupy this post (art. 9 of the Law).

The law introduced the principle of independence and inviolability of judges in the administration of justice and the principle of subordinating them exclusively to the norms of the legislation and the constitution of Ukraine (art. 27-28 of the Law).

Returning to the topic of the development of the judicial system in Ukraine, it should be noted that in 1998 a new body of judicial self – government was created in the country – the Higher Council of Justice (H.C.J.). In accordance with art. 3 of the *Law of Ukraine of 15 January 1998 on the Higher Council of Justice* [17] the tasks of the H.C.J. were to: consider cases and make decisions on violations by judges and prosecutors of the requirements for compliance with their positions, conduct disciplinary proceedings against judges of the Supreme Court of Ukraine and judges of the Supreme Specialized Courts, consider complaints against decisions of the Higher Qualification Commission of Judges of Ukraine (H.Q.C.J.) to prosecute or refuse to as well as prosecutors. In addition, the H.C.J. had the right to make a proposal to the president of Ukraine to appoint judges to the post or to dismiss them.

The Higher Council of Justice of Ukraine consisted of 20 members, namely: 3 members were appointed by the Verkhovna Rada of Ukraine, 3 – by the president of Ukraine, 3 – by the Congress of Judges of Ukraine, 3 – by the Congress of lawyers of Ukraine and 3 – by the Congress of representatives of higher legal educational establishments and scientific institutions of Ukraine, as well as 2 members from the All-Ukrainian Conference of employees of the prosecutor's office. In addition, the H.C.J. of Ukraine consisted of the President of the Supreme Court of Ukraine, the Minister of Justice of Ukraine and the Prosecutor General of Ukraine. The H.C.J. of Ukraine

was plenipotentiary subject to the appointment of at least 14 members and their oath (art. 5 and art. 16 of the Law).

A complaint against the decision of the H.Q.C.J. of Ukraine on bringing to disciplinary responsibility of a judge and a complaint against the decisions of the qualification and disciplinary commission of prosecutors of Ukraine on bringing to disciplinary responsibility of a prosecutor could be addressed to the higher council of justice of Ukraine within 1 month from the date of receipt by a judge or prosecutor of a decision to bring them to disciplinary responsibility (art. 46 and art. 47 of the Law).

3. Judicial reform 2001–2009. A new stage in the development of the judiciary in Ukraine was the adoption of the first *Law of Ukraine of 7 February 2002 on the system of the judiciary in Ukraine* [18]. This law established the legal basis for the organization of the judicial power in the state, the system of courts of general jurisdiction, including local courts, courts of appeal, the Appeal Court of Ukraine, the Cassation Court of Ukraine (C.C.U.), the Supreme Specialized Courts of Ukraine and the Supreme Court of Ukraine. The law also defined the status of judges, the requirements for applicants for a judicial position, the requirements for qualified attestation of judges, as well as the disciplinary liability of judges. According to art. 3 of the Law indicated that the judicial system in Ukraine consisted of a system of courts of general jurisdiction and the Constitutional Court of Ukraine, and the creation of extraordinary or special courts is unacceptable. The Law introduced the principle of independence of judges in the administration of justice and their subordination only to the norms of law (art. 14 of the Law).

According to art. 18 of the Law, the system of courts of general jurisdiction in Ukraine was formed because of territoriality and specialization and consisted of:

– Local courts,
– Appeal Courts and the Appeal Court of Ukraine,
– Cassation Court of Ukraine,
– Specialized Supreme Courts,
– Supreme Court of Ukraine.

The law stipulates that the supreme judicial body in the system of courts of general jurisdiction is the Supreme Court of Ukraine, and in the system of a specialized form of judiciary – the Supreme Specialized Courts of Ukraine.

As regards military courts, in accordance with art. 19 (1) of the Law, – military courts were referred to the system of courts of general jurisdiction and administered justice in the armed forces of Ukraine and other military units.

It should note be that for the first time in the history of the development of the judiciary of Ukraine, the law stipulated that the specialized form of the judiciary should include economic courts, administrative courts, as well as other specialized courts (art. 19 (2) of the Law).

On the other hand, according to art. 20 of the law, the establishment or liquidation of the ordinary courts took place based on a decree of the President of Ukraine at the request of the Minister of Justice of Ukraine agreed with the President of the Supreme Court of Ukraine or the President of the relevant Supreme Specialized Court of Ukraine.

In accordance with art. 21–22 of the Law, the local courts of general jurisdiction are referred to: district courts, local courts, as well as garrison military courts dealing with all civil and criminal cases, as well as cases of offenses as a court of first instance. On the other hand, the economic courts of the Autonomous Republic of Crimea, the cities of Kyiv and Sevastopol dealing with economic cases in were the first instance referred to the local economic courts. As local administrative courts defined, were district administrative courts dealing with all cases

arising from the administrative-public relations arising between the citizen and the body of state administration and acting as courts of first instance.

The Law established that the system of courts of general jurisdiction of Ukraine includes courts of appeal of general jurisdiction and specialized courts of Appeal. The regional courts of appeal, the courts of appeal of the cities of Kyiv and Sevastopol, the court of appeal of the Autonomous Republic of Crimea, the military courts of appeal of the regions of Ukraine and the court of appeal of the military-naval forces of Ukraine, as well as the Court of Appeal of Ukraine (art. 25 (1, 2) of the Law) are referred to the courts of appeal of general jurisdiction.

The Regional Appellate Courts have been established in the Autonomous Republic of Crimea (in Simferopol), in the cities of Kyiv and Sevastopol and in all the regions of Ukraine, namely: Vinnytsa, Volyn (in Lutsk), Dnipropetrovsk, Donetsk, Zhytomyr, Zakarpattia (in Uzhhorod), Zaporizhzhia, Ivano-Frankivsk, Kyiv, Kirovograd (since February 5, 2019, renamed Kropyvnytskyi Region) [19], Luhansk, Lviv, Mykolaiv, Odesa, Poltava, Rivne, Sumy, Ternopil, Kharkiv, Kherson, Khmelnytskyi, Cherkasy, Chernivtsi and Chernihiv [20].

The basis on of the *Decree of the President of Ukraine of 30 August 2001 № 739/2001* [21] in Ukraine created were four military Courts of Appeal:

– Military Court of Appeal of the Central Region of Kyiv,

– Military Court of Appeal of the Western Region in Lviv,

– Military Court of Appeal of the Southern Region of Odesa,

– Court of Appeal of the Military-Naval Forces of Ukraine in Sevastopol and twenty four local military courts of the garrisons in regions: Vinnytsa, Darnitsa (Kyiv), Dnipropetrovsk, Donetsk, Yevpatoriia, Zhytomyr, Zaporizhzhia, Ivano-Frankivsk, Kyiv, Luhansk, Lviv, Mykolaiv, Odesa, Poltava, Rivne, Sevastopol, Simferopol, Uzhhorod, Feodosia, Kharkiv, Khmelnytskyi, Cherkasy, Chernivtsi and Chernihiv.

In turn, in accordance with § 1 of the *Decree of the President of Ukraine of 19 October 2004 No. 1262/2004* – in Ukraine were liquidated seven local military courts of the garrisons in regions: Darnitsa (Kyiv), Yevpatoriia, Zaporizhzhia, Ivano-Frankivsk, Luhansk, Poltava and Feodosia [22].

In addition, under the *Decree of the President of Ukraine of 6 July 2006 № 559/2006* also liquidated were [23]:

– Military Court of Appeal of the Western Region in Lviv,

– Military Court of Appeal of the Southern Region of Odesa,

– local military court of the Vinnytsa garrison,

– local military court of the Mykolaiv garrison,

– local military court of the Uzhhorod garrison,

– local military court of Chernivtsi garrison,

– local military court of the Chernihiv garrison.

However, the activities of the local military court of the Mykolaiv garrison and the local military court of the Uzhhorod garrison were again renewed based on the *Decree of the President of Ukraine No. 730/2006 of 4 September 2006*, and the local military court of the Donetsk garrison was liquidated [24].

According to the wording of art. 25 (5, 6) of the *Law of Ukraine of 7 February 2002 on the judicial system in Ukraine* [18] – the courts of appeal instance of general jurisdiction were composed of the judicial college for civil cases and the judicial college for criminal cases, and the Court of Appeal of Ukraine was additionally constituted by the judicial college for military cases.

Presidiums were also created in the Courts of Appeal Instance, whose tasks were: 1) to resolve organizational issues

of the activities and supervision of the court, judicial colleges and court chancery, 2) approval of the composition and composition of judicial colleges, 3) analysis of information of the Presidents of judicial colleges concerning the activities of these colleagues, 4) consideration of materials generalization of judicial practice, 5) analysis of judicial statistics. Meetings of the bureau were held at least once a month (art. 25 (8), art. 30 (2, 3) of the Law).

As regards specialized courts of appeal instance, this category of courts includes the economic courts of appeal instance and the administrative courts of appeal instance, which established were in the respective appellate districts in accordance with the Decree of the President of Ukraine (art. 25 (3) of the Law).

On *June 21, 2001, the Law of Ukraine on amendments to the Law of Ukraine of 4 June 1991 No. 1142-XII on the arbitration court* was adopted [25], which defined the structure of the system of specialized economic courts in Ukraine, namely:

– local economic courts,
– Appeal Economic Courts,
– Supreme Economic Court of Ukraine.

As follows from the content contained in Annex №2 of the *Decree of the President of Ukraine of 11 July 2001 № 511/2001* [26] – local economic courts were established in the Autonomous Republic of Crimea (in m. Simferopol), the cities of Kyiv and Sevastopol, as well as in all regions of Ukraine: Vinnytsa, Volyn (in m. Lutsk), Dnipropetrovsk, Donetsk, Zhytomyr, Zakarpattia (in Uzhhorod), Zaporizhzhia, Ivano-Frankivsk, Kyiv, Kirovograd (since 5 February 2019 renamed Kropyvnytskyi Region), Luhansk, Lviv, Mykolaiv, Odesa, Poltava, Rivne, Sumy, Ternopil, Kharkiv, Kherson, Khmelnytskyi, Cherkasy, Chernivtsi and Chernihiv.

As for the Appellate Economic Courts, based on §1 of the Decree of the President of Ukraine were created seven Appellate Economic Courts:

1) Appeal Economic Court in Dnipropetrovsk of (since 19 May 2016 renamed the city of Dnipro) [27] for the Dnipropetrovsk and Kirovograd regions (since 5 February 2019 renamed Kropyvnytskyi Region) [19],

2) Appeal Economic Court in Donetsk for the Donetsk region,

3) Appeal Economic Court in Kyiv for the Vinnytsa, Zhytomyr and Khmelnytskyi regions,

4) Appeal Economic Court in Lviv for the Volyn, Zakarpattia, Ivano-Frankivsk, Lviv, Rivne, Ternopil and Chernivtsi regions,

5) Appeal Economic Court in Odesa for the Mykolaiv and Odesa regions,

6) Appeal Economic Court in Sevastopol for the Autonomous Republic of Crimea and the city of Sevastopol,

7) Appeal Economic Court in Kharkiv for the Sumy and Kharkiv regions.

In addition, in accordance with the *Decree of the President of Ukraine of 30 May 2002 №499/2002* in Ukraine created were two new Appellate Economic Courts [28]:

8) Appeal Economic Court in Zhytomyr for the Vinnytsa, Zhytomyr and Khmelnytskyi regions,

9) Appeal Economic Court in Zaporizhzhia for the Zaporizhzhia and Kherson regions.

In addition, on *25 June 2003 of the Decree of the President of Ukraine № 552/2003* [29] adopted was on the establishment of an Interdistrict Appeal Economic Court in Kyiv for the Kyiv, Poltava and Cherkasy regions and an Appeal Economic Court in Luhansk for the Luhansk region.

To sum up, in 2003 there were 11 Appeal Economic Courts in Ukraine.

On 16 November 2004 was adopted *Presidential Decree № 1417/2004 on the establishment of district and appellate administrative courts, as well as approval of district territorial courts and the number of judges* [30].

According to §1 of the Decree, from 1 January 2005, twenty seven districts administrative courts were established

in Ukraine, namely: Autonomous Republic of Crimea, city of Sevastopol, city of Kyiv and all regions of Ukraine: Vinnytsa, Lutsk, Dnipropetrovsk (since 19 May 2016 renamed the city of Dnipro) [27], Donetsk, Zhytomyr, Uzhhorod, Zaporizhzhia, Ivano-Frankivsk, Kyiv, Kirovograd (since 5 February 2019 renamed Kropyvnytskyi Region) [19], Luhansk, Lviv, Mykolaiv, Odesa, Poltava, Rivne,

Sumy, Ternopil, Kharkiv, Kherson, Khmelnytskyi, Cherkasy, Chernovtsy, Chernihiv.

On 13 October 2008, a new *Decree of the President of Ukraine №922/2008* [31] adopted was, by the District Administrative Court of the city of Kyiv was abolished, and at the same time, in accordance with §2 of this Decree, – two new district administrative courts of Ukraine were established on 14 October 2008:

– Central District Administrative Court of the city of Kyiv,

– Left-Bank District Administrative Court of the city of Kyiv.

However, on 16 October 2008, in accordance with *Presidential Decree №940/2008* [32] was liquidated district administrative court of the city of Kyiv, and in return of this court created were two new district administrative courts of Kyiv: the Central District Administrative Court of Kyiv and the Left-Bank District Administrative Court of Kyiv. Therefore, the activities of the Kyiv Regional Administrative Court were again renewed.

In addition, as of 1 January 2005 in Ukraine created were – seven Appeal Administrative Courts [30]:

1) Appeal Administrative Court in Dnipropetrovsk (since 19 May 2016 renamed the city of Dnipro) [27]) for the Dnipropetrovsk, Zaporizhzhia and Kirovograd (since 5 February 2019 renamed Kropyvnytskyi Region) [19] regions,

2) Appeal Administrative Court in Donetsk for the Donetsk and Luhansk regions,

3) Appeal Administrative Court in Kyiv for the Vinnytsa, Zhytomyr, Kyiv, Cherkasy, Chernihiv regions and city of Kyiv,

4) Appeal Administrative Court in Lviv for the Volyn, Zakarpattia, Ivano-Frankivsk, Lviv, Rivne, Ternopil, Khmelnytskyi and Chernivtsi regions,

5) Appeal Administrative Court in Odesa for the Mykolaiv, Odesa and Kherson regions,

6) Appeal Administrative Court in Sevastopol for the Autonomous Republic of Crimea and the city of Sevastopol,

7) Appeal Administrative Court in Kharkiv for the Poltava, Sumy and Kharkiv regions.

However, on 16 October 2008 was adopted a new *Decree of the President of Ukraine № 941/2008* [33] which in Ukraine in addition from 1 March 2009 began to function two new appeals administrative courts: Appeal Administrative Court in Vinnytsa for the Vinnytsa, Khmelnytskyi, Cherkasy and Chernivtsi regions; Appeal Administrative Court in Zhytomyr for the Volyn, Zhytomyr and Rivne regions.

In accordance with the above Decree, were appropriate changes also made in the scope of the territorial districts in the other appeal administrative courts of Ukraine.

To sum up, in 2008 there were nine appeals administrative courts in Ukraine.

On 1 October 2002, in Ukraine adopted *Presidential Decree № 889/2002* [34] on the establishment of the Appeal Court of Ukraine, of the Cassation Court of Ukraine and the Supreme Administrative Court of Ukraine.

In accordance with art. 32 (2) of the *Law of Ukraine of 7 February 2002 on the judicial system in Ukraine* [18] – the Court of Cassation of Ukraine had three judicial colleges: 1) judicial college for civil cases, 2) judicial college for criminal cases, 3) judicial college for military

cases. Cases in the Cassation Court of Ukraine were heard by three judges, and the judges were appointed indefinitely (art. 32 (1) and art. 33 (2) of the Law).

In the Cassation Court of Ukraine also created was the Presidium whose tasks were: 1) resolving organizational issues of activity and supervision of the court, judicial colleges and the secretariat of the court, 2) approval of the composition and composition of judicial colleges, 3) analysis of information of the chief of judicial colleges on the activities of these colleges, 4) consideration of materials generalization of judicial practice, 5) analysis of judicial statistics. The Presidium C.C.U met at least once a month (art. 30, art. 32 (4) and art. 37 (3) of the Law).

On 11 December 2003, the Constitutional Court of Ukraine adopted a resolution on the liquidation of the Cassation Court of Ukraine (C.C.U.) [35]. In the resolution of the C.C.U., one of the reasons for the liquidation of the C.C.U. indicated that the formation of the system of courts of general jurisdiction should take place in accordance with the stages of the proceedings, and in particular the appeal and cassation proceedings. According to the content of these provisions, the appellate instance called is the Courts of Appeal, and Cassation proceedings conducted can be in the relevant courts specified in art. 125 of the Constitution of Ukraine, namely – the Supreme Court of Ukraine or Supreme Specialized Courts of Ukraine. At this point, should be it noted that art. 125 of the Constitution of Ukraine does not generally indicate that the Court of Cassation of Ukraine operates in the judicial system of Ukraine.

The *Law of Ukraine of 7 February 2002 on the judicial system* [18] also if the Supreme Specialized Courts in Ukraine referred are to be as the Supreme Economic Court of Ukraine, the Supreme Administrative Court of Ukraine and other Supreme Specialized Courts if they established are in the judicial system of Ukraine. In addition, specialized supreme courts could set up judicial colleges to deal with a separate category of cases (art. 38 (1, 3) of the Law).

In the Supreme Specialized Courts also created was the Presidium whose tasks were: 1) resolving organizational issues of activity and supervision of the court, judicial colleges and the secretariat of the court, 2) approval of the composition of judicial colleges, 3) analysis of information of the chief of judicial colleges on the activities of these colleges, 4) consideration of materials generalization of judicial practice, 5) analysis of judicial statistics. Meetings of the Presidium were held at least once every two months (art. 38 (5) and art. 43 (3) of the Law).

In the Supreme Specialized Courts of Ukraine created also was a Plenum to the tasks of which belonged: 1) issue clarifications to specialized courts on the application of legislation in the resolution of a separate category of cases, 2) approval of the composition of the Scientific Advisory Board acting at the Supreme Specialized Court, including approval of the composition of the editorial board of the scientific journal issued under the aegis of the Supreme Specialized Court, 3) determination of the numerical composition of judges in the Presidium of the Supreme Specialized Court,

4) analysis of information from the President of the Supreme Specialized Court on the activities of the court, 5) analysis of information of the deputy President of the Supreme Specialized Court and the Presidents of appellate and local specialized courts about the practice of consideration of cases, 6) making appropriate proposals in accordance with the established procedure regarding the need for amendments to the legislation, 7) making a decision to apply to the Constitutional

Court of Ukraine for an official translation of the norms of the Constitution of Ukraine (art. 38 (6) and art. 44 (2, 3) of the Law).

Pursuant to art. 47 of the Law, the Supreme Court of Ukraine is defined as the highest judicial instance in the system of courts of general jurisdiction of the Ukrainian state, whose task is to ensure the uniform application of legislation by all courts of general jurisdiction in the country.

The competence of the Supreme Court of Ukraine included: 1) review of cases in connection with the exceptional circumstances of the case, 2) issue on the basis of generalized judicial practice and analysis of judicial statistics clarifications to the courts on the application of legislation in the consideration of a particular category of cases, and if necessary the recognition as invalid clarifications issued by the Plenum of the Supreme Specialized Court, 3) issue an opinion on the signs of treason or other crime in the actions of the President of Ukraine, as well as at the request of the Verkhovna Rada of Ukraine issue an opinion on the inability of the President of Ukraine to exercise his powers in connection with the state of health, 4) appeal to the Constitutional Court of Ukraine with a request concerning the constitutionality of the application of legislative acts in the resolution of cases, as well as the official translation of the norms of the Constitution of Ukraine, 5) conducting and analyzing judicial statistics, including generalizations of judicial practice, 6) within the limits of their powers – to resolve issues arising from international agreements of Ukraine and to represent courts of general jurisdiction with the courts of other states.

According to art. 48 of the Law in the composition of the Supreme Court of Ukraine acted five judicial colleges:

1) Judicial College for civil cases,

2) Judicial College for criminal cases,

3) Judicial College for economic cases,

4) Judicial College for administrative cases,

5) Judicial College for military cases.

In the Supreme Court of Ukraine created was the Presidium whose tasks were: 1) resolving organizational issues of the activities and supervision of the Supreme Court of Ukraine, judicial colleges and the secretariat of the court, 2) approval of the composition of judicial colleges, 3) analysis of information of the chief of judicial colleges on the activities of these colleges, 4) consideration of materials generalization of judicial practice and analysis of judicial statistics, 5) analysis of information of the Presidents of the Appeal Courts, the President of the Cassation Court of Ukraine and the Presidents of the Supreme Specialized Courts concerning the organization of the work of these courts. Meetings of the Presidium were held at least once every two months (art. 48 (3) and art. 54 of the Law).

In the Supreme Court of Ukraine created was also a Plenum whose tasks were:

1) appointment to the post of the President of the Supreme Court of Ukraine and his dismissal from this post, as well as appointment to the administrative posts of judges of the Supreme Court of Ukraine and their dismissal from these posts, 2) the establishment of judicial colleges of the Supreme Court of Ukraine and the determination of the quantitative composition of judicial colleges, including the appointment of judges as chairmen of judicial colleges and their deputies;

3) analysis of information of the President of the Supreme Court of Ukraine, chairmen of judicial collegiums, Presidents of Supreme Specialized Courts, the President of the Cassation Court of Ukraine and the Presidents of the appeal courts on the organization of work and activities of these courts, as well as judicial colleagues,

4) issuing clarifications to courts of general jurisdiction on the specialized courts,

5) appeal to the Constitutional Court of Ukraine with a request for an official translation of the norms of the Constitution of Ukraine and other powers.

The deliberations of the Plenum of the Supreme Court of Ukraine were plenipotentiary subject to the presence of not less than 2/3 of the composition of the Plenum. In addition, the President of the Higher Council of Justice of Ukraine, the Prosecutor General of Ukraine and the Minister of Justice of Ukraine should have participated in such a meeting. The Plenum of the Supreme Court of Ukraine met at least once every 3 months (art. 48 (4) and art. 55 of the Law).

It can that be stated the *Law of Ukraine of 7 February 2002 on the judicial system in Ukraine* for its time became *a revolutionary legal act* in the formation of the judicial system of Ukraine. The law clearly defined the system of the judicial system in the state, the role of each of the judicial institutions, as well as the bodies of local judicial authority.

As the Ukrainian scientist Moskvich L. character of the changes of any object, including the judicial system in the state can be radical (that is, revolutionary and evolutionary) based on the improvement of activity. The choice of the type of changes in the course of reforming in accordance with the principle of dialectics is determined by the level of incompatibility of the form and content of the object in which the reforming is carried out: the higher the level of incompatibility, the greater the degree of radical reforms are justified. For Ukraine, this situation is very significant, because it justifies the implementation of radical reforms of the judicial system [36].

With the introduction of the Law of Ukraine of 7 February 2002 on the judicial system in Ukraine [18] – the expired of the Law of Ukraine of 2 February 1994 №3909-XII on bodies of judicial self-government [13] and the Law of Ukraine of 2 February 1994 № 3911-XII on qualification commissions, qualified attestation and disciplinary liability of judges of courts of Ukraine [14].

The new Law of Ukraine of 7 February 2002 on the judicial system in Ukraine not only defined the system of the judicial system in the Ukrainian state, but introduced a new concept in the judicial system of Ukraine, namely – *a specialized form of judiciary*, and also specifically listed the bodies of judicial self-government, their competence and structure.

In accordance with art. 74 of the law to the Qualification Commissions of Judges of Ukraine (Q.C.J.) were referred: 1) Q.C.J. of the courts of general jurisdiction, 2) Q.C.J. of the military courts, 3) Q.C.J. of the administrative courts, 4) Q.C.J. of the economic courts and 5) Higher Qualification Commission of Judges of Ukraine (H.Q.C.J.).

Qualification Commission of Judges of Ukraine courts of general jurisdiction performed their duties in the center of the appellate districts, and the Higher Qualification Commission of Judges of Ukraine – in Kyiv.

According to the content of art. 84 of the Law, the tasks of the Higher Qualification Commission of Judges of Ukraine were: 1) to issue an opinion on the possibility of applying for the position of judges of the Supreme Court of Ukraine, Supreme Specialized Courts, the Cassation Court of Ukraine and the Appeal Court of Ukraine, 2) issuing opinions on the dismissal of judges from the post, 3) verification of candidates for the post of Judge requirements of the Constitution of Ukraine and Ukrainian legislation, 4) certification of judges of the Supreme Court of Ukraine, Supreme Specialized Courts, the Cassation Court of Ukraine and the Appeal Court of Ukraine, 5) assignment of judges of the

appropriate qualified class, 6) consideration of applications for disciplinary responsibility of judges of the Cassation Court of Ukraine and judges of the Appeal Courts of Ukraine, 7) consideration of complaints against the decision of the Selection Committee of judges, 8) granting permission to the judges for a second or additional examination (applies to the judges who were refused in oblique for an indefinite period), 9) issuing a decision to interrupt the stay of a judge in a state of rest (except for judges of local or district courts) and 10) other powers provided for by legislation.

The Law of Ukraine of 7 February 2002 on the system of the judiciary in Ukraine radically changed the composition of both the Qualification Commissions of Judges of Ukraine and the Higher Qualification Commission of Judges of Ukraine.

In accordance with art. 74 (3) of the Law, the term of office of a Q.C.J. member has been reduced to 3 years from the date of establishment of the relevant commission (previously it was 5 years). In accordance with art. 75 (1) of the Law, the Qualification Commissions of Judges was composed of 11 members, namely:

6 members – judges of courts of general jurisdiction, or judges of economic courts, or judges of administrative courts, or judges of military courts,

+ 2 members from the Ministry of Justice of Ukraine,

+ 2 members authorized by the Regional Council or the Kyiv City Council in accordance with the location of the Q.C.J.,

+ 1 member from the Plenipotentiary for Human Rights of the Verkhovna Rada of Ukraine.

By contrast, in accordance with art. 75 (2) of the Law, the Higher Qualification Commission of Judges of Ukraine of Ukraine consisted of 13 members, namely:

7 judges,

+ 2 persons appointed by the Verkhovna Rada of Ukraine,

+ 2 persons appointed by the president of Ukraine,

+ 1 person from the Plenipotentiary for Human Rights of the Verkhovna Rada of Ukraine,

+ 1 person from the Minister of Justice of Ukraine.

In accordance with art. 98 of the Law to the bodies, conducting disciplinary proceedings against judges referred were:

1) Qualification Commission of Judges – to the judges of local courts,

2) Higher Qualification Commission of Judges of Ukraine – for judges of appeal courts and Cassation Court of Ukraine,

3) Higher Council of Justice of Ukraine – to the supreme judges of specialized courts and judges of the Supreme Court of Ukraine.

The decisions of the Qualification Commissions of Judges concerning the results of attestation could be appealed by judges or candidates for the position of judges – to the Higher Qualification Commission of Judges of Ukraine within 15 days from the date of receipt of the copy of the commission's decision, and the deadline for consideration of such a complaint in the H.Q.C.J. of Ukraine was 1 month. In contrast, the decisions of the Q.C.J. or the H.Q.C.J. of Ukraine to hold a judge to disciplinary responsibility appealed could be within 1 month from the date of receipt of the decisions of these commissions – to the Higher Council of Justice of Ukraine (art. 95 (1, 3) and art. 101 (1) of the Law).

As for the organizational forms of judicial self-government, in accordance with art. 104 of the Law, the following are referred to: Assembly of Judges, Conferences of Judges, Congress of Judges of Ukraine, Councils of Judges and their executive bodies, namely:

1) Assembly of Judges of the local courts, Assembly of Judges of the appeal courts, Assembly of Judges of the Appeal Court of Ukraine, Assembly of Judges of the Cassation Court of Ukraine, Assembly

of Judges of the Supreme Specialized Courts of Ukraine and the Assembly of Judges of the Supreme Court of Ukraine,

2) Conferences of Judges of local courts of general jurisdiction (with the exception of military courts) and Conferences of Judges of the Appeal Courts in the Autonomous Republic of Crimea, Conferences of Judges of the Regional Courts of Ukraine, Conferences of Judges of the court the city of Kyiv and Conferences of Judges of the court the city of Sevastopol,

3) Conference of Judges of military courts,

4) Conferences of Judges of Specialized Courts,

5) Congress of Judges of Ukraine.

The *Assembly of Judges* is a meeting of the judges of the relevant court at which questions of the internal activity were of the court discussed, during which the collegial decisions of the participants were of the meeting taken from the questions discussed. Assemblies of Judges of local courts held were not less than once every 6 months, and assemblies of judges of appeal courts and Cassation Court of Ukraine – not less than once every 3 months (art. 105 of the Law). As for the assembly of judges of the Supreme Court of Ukraine and Supreme Specialized Courts, such assemblies were convened by the Presidium of the court or at the request of the President of the court or at the request of 1/3 of the judges of that court and were usually held at least once every 3 months (art. 106 of the Law).

The tasks of the *Conference of Judges* were: 1) discussing and resolving issues related to the organizational and financial security of the activities of the courts,

2) discussion of the report of the executive bodies of the conference and information of the state judicial administration, 3) determination of the quantitative composition of the council of judges and selection of its members, 4) selection of the members of the relevant qualification committees of judges, 5) development of proposals for consideration by the Congress of Judges of Ukraine, 6) meeting of delegates to the Congress of Judges of Ukraine and discussing other issues related to the powers of the judicial self-government bodies. It be should note that the conference of judges was plenipotentiary, if no less than 2/3 of the delegates of the relevant courts were present.

In the period between conferences of judges, the functions of the judicial self-government were exercised by the *Council of Judges* (art.108 and 110-111 of the Law).

As before, the Supreme body of judicial self-government is the *Congress of Judges of Ukraine*. In accordance with art. 112 of the Law, the tasks of the Congress of Judges of Ukraine were: 1) hearing the report of the Council of Judges of Ukraine on the implementation of the tasks of the judicial self-government regarding the independence of courts and judges and their organizational and financial security, 2) defending the members of the Higher Qualification Commission of Judges of Ukraine and discussing the report on the activities of this commission, 3) analysis of information of the President of the State Judicial Administration of Ukraine, 4) election and dismissal of judges of the Constitutional Court of Ukraine, 5) defending members of the Higher Council of Justice of Ukraine and making decisions on the suspension of their powers, 6) determine the quantitative composition of the Council of Judges of Ukraine and its members.

In another way, changed the mode of convening the Congress of Judges of Ukraine. First: the Law introduced the concept of the term and early Congress of Judges of Ukraine. Secondly, the timely Congress of Judges was convened by the Council of Judges of Ukraine, and the early Congress of Judges of Ukraine was convened at the request of not less than

1/3 of the delegates of the Conference of Judges of courts of general jurisdiction or specialized courts or at the request of the meeting of judges of the Supreme Court of Ukraine. In the third: the frequency of meetings of judges of Ukraine has changed, namely: 1 Congress for 3 years.

The Council of Judges of Ukraine exercised the functions of the judicial self-government between the Congress of Judges of Ukraine (art. 113, 116 of the Law).

It should note be that with the adoption of the law, a new body of state administration in Ukraine created was – the *State Judicial Administration*, whose task is to organize the activities of the courts. On the other hand, the organizational security of the activities of the Supreme Court of Ukraine, the Constitutional Court of Ukraine and the Supreme Specialized Courts belonged to these courts (art. 125 of the Law).

4. Conclusions. 1) An important step in the development of the judicial system of Ukraine is the adoption on 28 June 1996 of the first *Constitution of Ukraine* [15], which, in Chapter VIII of the Constitution, entitled "Judiciary" (art. 124-131), established a new judicial system in the Ukrainian state. The article 6 of the Constitution of Ukraine of 1996 introduced the principle of the three-division of state power into legislative, executive and judicial.

In my opinion, an important step in the formation of constitutional order in Ukraine was the adoption by the *Plenum of the Supreme Court of Ukraine on 1 November 1996 of Resolution No. 9 on the application of the constitution of Ukraine in the administration of justice* [37], which for that period was revolutionary in nature. The Supreme Court of Ukraine gave the right to courts to directly apply the norms of the constitution in the resolution of cases, and prohibited the application of the norms of legislation that contradict the constitution of Ukraine (§ 2 of the Resolution).

2) On 11 December 2003, the Constitutional Court of Ukraine adopted a resolution on the liquidation of the Cassation Court of Ukraine (C.C.U.) [19]. In the resolution of the C.C.U., one of the reasons for the liquidation of the C.C.U. indicated that the formation of the system of courts of general jurisdiction should take place in accordance with the stages of the proceedings, and in particular the appeal and cassation proceedings. According to the content of these provisions, the appellate instance called is the Appeal Courts, and Cassation proceedings conducted can be in the relevant courts specified in art. 125 of the Constitution of Ukraine, namely – the Supreme Court of Ukraine or Supreme Specialized Courts of Ukraine.

In my opinion, the liquidation of the Cassation Court of Ukraine – in this period – was the correct step, since art. 125 of the Constitution of Ukraine did not generally indicate that of the Cassation Court of Ukraine functioned in the judicial system of Ukraine. In addition, the resolution of the Constitutional Court of Ukraine also stated that, in accordance with art. 131 (3) of the Constitution of Ukraine, the Higher Council of Justice of Ukraine conducts disciplinary proceedings only against judges of the Supreme Court of Ukraine and the Supreme Specialized Courts of Ukraine, and considers complaints that judges of the Courts of Appeal, local courts and prosecutors are held liable for disciplinary action. This leads to the conclusion – that there was simply no judicial self-government body that would consider complaints of the Cassation Court of Ukraine judges about disciplinary liability. Although, in accordance with art. 98 (2) of the *Law of Ukraine of 7 February 2002 on the judicial system in Ukraine* – the body of the judicial self-government, which conducted disciplinary proceedings against judges of the Appeal Courts

and the Cassation Court of Ukraine was the Higher Qualification Commission of Judges of Ukraine – but as a body of first instance.

3) On 7 February 2002, adopted was Ukraine's first law on the judicial system. This law established the legal basis for the organization of the judicial power in the state, the system of courts of general jurisdiction, including local courts, appeal courts, the Appeal Court of Ukraine, the Cassation Court of Ukraine, the Supreme Specialized Courts of Ukraine and the Supreme Court of Ukraine. The law also defined the status of judges, requirements for applicants for a judicial position, qualification attestation of judges, as well as disciplinary liability.

According to art. 20 (1) of the law, the establishment or liquidation of courts took place in accordance with the Decree of the President of Ukraine at the request of the Minister of Justice of Ukraine agreed with the president of the Supreme Court of Ukraine or the President of the relevant Supreme Specialized Court of Ukraine.

In my opinion, the above norms of legislation did not fully correspond to the disposal of art. 6 of the Constitution of Ukraine of 1996, which indicated the principle of the three-division of power into legislative, executive and judicial.

From my point of view, the creation, reorganization or liquidation of courts in Ukraine should have taken place not only on the basis of a Decree of the President of Ukraine, but also with the consent after prior consultation with the Higher Council of Justice of Ukraine, as well as approval by the Verkhovna Rada of Ukraine, which in turn would have ensured a balance between the authorities in the country in making appropriate decisions in this regard.

An example of improper actions of the executive power (the President) in the judicial system and paralysis of the judicial power is the Decree of the President of Ukraine №922/2008 of 13 October 2008 [31], by the District Administrative Court of the city of Kyiv was abolished, and at the same time, in accordance with §2 of this Decree, – two new district administrative courts of Ukraine were established on 14 October 2008: Central District Administrative Court of the city of Kyiv and Left-Bank District Administrative Court of the city of Kyiv.

However, already in 2 days after the signing by the president of Ukraine of the above decree was adopted a new Presidential Decree of Ukraine №940/2008 of 16 October 2008 [32], which repealed the previous Presidential Decree №922/2008 of 13 October 2008 [31], according to which was liquidated the District Administrative Court of the city of Kyiv and in and Left-Bank District Administrative Courts for the city of Kyiv. However, after the adoption of the new Presidential Decree №940/2008 of 16 October 2008 [32], the work of the District Administrative Court of the city of Kyiv was again renewed.

With the adoption of the new *Law of Ukraine of 2 June 2016 on the judicial system and the status of judges* [38], significant changes are taking place in the procedure for the establishment, reorganization and liquidation of courts. The fact is that the new law introduced the principle of creation, reorganization and liquidation of the court only at the legislative level, and the draft of such a law can be submitted by the President of Ukraine to the Verkhovna Rada of Ukraine after prior consultation with the higher council of justice of Ukraine (art. 19 (1, 2) of the Law).

In my opinion, the specified standard of legislation fully realized the requirements of art. 6 of the Constitution of Ukraine of 1996, which indicates the principle of the three-division of power into legislative, executive and judicial.

The scientific article examines the problems of development and transformation of the judicial system of Ukraine after 1991, namely in the

periods: 1991–2000 and 2001–2009. The aims and objectives of the implementation of the judicial and legal concept of Ukraine of 1992, including are investigated the implementation of judicial reform in the field of administrative justice. Is analyzed the legislation of Ukraine on the judicial system and the status of judges (1992, 2002). In addition, the scientific article examines in detail the structure of the system of courts of general jurisdiction, including the system of military courts, as well as the system of specialized economic courts and specialized administrative courts. The activity of judicial collegiums of the Supreme Court of Ukraine analyzed is as well the Presidium and Plenum of the Supreme Court of Ukraine. Is investigated the activity of specialized courts of Ukraine: the Supreme Economic Court of Ukraine and the Supreme Administrative Court of Ukraine. In addition, is being investigated the activity of courts of appeal of general jurisdiction, economic courts of appeal and administrative courts of appeal. The analysis of the problems of functioning and liquidation of the Cassation Court of Ukraine (2003) carried is out its powers and place in the system of courts of general jurisdiction of the country. The problems investigated are concerning the order of creation, reorganization and liquidation of courts in Ukraine. The author analyzes the powers and activities of the judicial self-government bodies of Ukraine: the Assembly of Judges, the Conference of Judges, the Council of Judges of Ukraine, the Congress of Judges of Ukraine, the Qualification Commissions of Judges, the High Qualification Commission of Judges of Ukraine, as well as the Higher Council of Justice of Ukraine.

The purpose of the study is a comparative analysis of the periods of transformation of the judicial system in Ukraine after 1991: 1991-2000 and 2001-2009, as well as an analysis of publications and studies of the development of the judicial system of this state. These studies and problems are the purpose of this work.

Key words: Ukraine, judicial system, Supreme Court, Higher Specialized Courts, judicial self-government bodies.

Буренко Р. Трансформація судової системи в Україні в період 1991–2009 рр.

У науковій статті досліджуються проблеми розвитку та трансформації судової системи України після 1991 року, а саме в періоди: 1991–2000 та 2001–2009. Досліджуються цілі та завдання реалізації судово-правової концепції України 1992 року, в тому числі питання здійснення судової реформи в галузі адміністративної юстиції. Аналізується законодавство України Про судоустрій і статус суддів (1992, 2002). Крім того, в науковій статті детально досліджується пристрій системи судів загальної юрисдикції, в тому числі системи військових судів, а також системи спеціалізованих господарських судів і спеціалізованих адміністративних судів. Аналізується діяльність судових колегій Верховного Суду України, а також Президії та Пленуму Верховного Суду України. Досліджується діяльність спеціалізованих судів України: Вищого господарського суду України та Вищого адміністративного суду України. Крім того, досліджується діяльність судів апеляційної інстанції загальної юрисдикції, апеляційних господарських судів та апеляційних адміністративних судів. Проводиться аналіз проблематики функціонування та ліквідації Касаційного суду України (2003), його повноважень та місця в системі судів загальної юрисдикції країни. Досліджується пробле-

матика щодо порядку створення, реорганізації та ліквідації судів в Україні. Проводиться аналіз повноважень та діяльності органів суддівського самоврядування України: зборів суддів, конференції суддів, Ради суддів України, З'їзду суддів України, кваліфікаційних комісій суддів, Вищої кваліфікаційної комісії суддів України, а також Вищої ради юстиції України. Метою дослідження є порівняльний аналіз періодів трансформації судової системи в Україні після 1991 року: 1991–2000 та 2001–2009 роки, а також аналіз публікацій та досліджень розвитку судової системи даної держави. Ці дослідження та проблеми є метою даної роботи.

Ключові слова: Україна, судова система, Верховний суд, Вищі спеціалізовані суди, органи судового самоврядування.

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