

# General Overview of Ukraine's Judicial System



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The principles of ensuring justice are declared in the *Constitution of Ukraine*. The main principles are ensuring justice exclusively via the courts and the inadmissibility of delegating functions of courts, as well as of appropriation of their functions by other bodies or officials; extension of jurisdiction of courts for any legal dispute and any criminal charge; the binding nature of judicial decisions on the whole territory of Ukraine.

Today, Ukraine still finds itself on the edge of judicial reform, the main purpose of which is increasing the efficiency of judicial process, combatting corruption in court rooms and creating an actual independent judicial system.

The Law of Ukraine *On Judicial System and Status of Judges* stipulates that in Ukraine justice is delivered exclusively by the courts. They specialize in civil, criminal, economic, administrative, and administrative offenses. In cases determined by law, as well as by the decision of the assembly of judges of the relevant court, the specialization of courts may be introduced for consideration of specific categories of cases.

Ukraine has a three-level system of justice, i.e. local courts and the Supreme Court being the highest court of Ukraine's judicial system and not only delivering justice, but also performing the important task of ensuring uniform application of the rules of law via courts of various specializations.

Local courts of first instance are the most numerous. Local general courts are district courts formed in one or several districts or districts in cities, or in a city, or in a district (s), and city (cities). Local economic courts are district economic courts. Local administrative courts are district administrative courts and other courts defined by

procedural law. Courts of first instance decide on the merits of the case, for which cause they are endowed with the right to establish factual findings of the case by assessment of evidence collected in the case at own inner conviction. Judgements of local courts, as a rule, come into force after the termination of the term for the appeal or after review of the case by the court of appeal, if a judgment was not canceled or modified as a result of review.

Consideration of a particular case by a court depends on the parties to a dispute and its nature and is governed, first and foremost, by the appropriate codes of procedure (*Civil Code of Procedure of Ukraine (2004)*, *Economic Code of Procedure of Ukraine (1991)*, *Code of Administrative Justice of Ukraine (2005)*, *Code of Ukraine on Administrative Offenses (1984)*, *Criminal Code of Procedure of Ukraine (2012)*).

Economic courts generally resolve disputes arising from the conduct of economic activity, in particular, in the concluding, modifying, terminating and executing of transactions in economic activity, disputes arising from corporate relations, relations connected with protection of economic competition, of transaction on stakes, shares, shares in stock, other corporate rights in legal entity, disputes regarding securities, rights of ownership or other property rights, bankruptcy, disputes regarding appeal of acts (decisions) of a business entities and their bodies, officials in the sphere of organization and implementation of economic activities, cases on appeal against decisions of arbitration courts and other disputes between business entities.

The jurisdiction of administrative courts extends to cases on public law disputes, particularly disputes of individuals or legal entities with subjects of authority regard-

ing the appeal of its decisions (legal acts or individual acts), acts or omissions, disputes between the subjects of authority regarding the exercise of their competence, disputes on the petition of the subject of authority in cases where the right to apply to a court for the resolution of a public dispute is granted to such a person by law, disputes regarding seizure of property or coercive alienation of property for public needs or on grounds of social necessity, etc. However, the jurisdiction of administrative courts does not apply to cases that come under the jurisdiction of the Constitutional Court of Ukraine, which must be decided in the context of criminal procedure and cases of imposing administrative fees, except for cases provided by law.

Local general courts consider civil, criminal, administrative cases, case of administrative offenses. Cases arising from civil, land, labor, family, residential and other legal relations are considered in civil proceedings, except for cases, which are considered in the procedure of other legal proceedings. The system of general courts is the most ramified, and they can be created in districts, cities, districts in cities.

Courts of second instance are courts of appeal. Courts of appeal for the consideration of civil and criminal cases and cases of administrative offenses, are courts of appeal formed in appellate districts. Courts of appeal for consideration of economic cases, courts of appeal for the consideration of administrative cases are, respectively, economic courts of appeal and appellate administrative courts of appeal formed in the respective appellate districts.

The functions of courts of appeal depend on the specialization of the court and the category of the case. As a general rule, the court of appeal reconsiders a case on the evidence it contains and additional evidence and verifies the legality and sufficiency of the decision of the court of first instance within the framework of the arguments and the requirements of the appeal. The decision of the court of appeal comes into force from the moment of its proclamation.

The last and highest instance in the system of courts is the Supreme Court, which started working on 15 December 2017, and is endowed with the right to review court decisions in the order of cassation pro-



## ANTIKA LAW FIRM

Antika Law Firm has been providing legal services to corporate and private clients since 2010. During this time the firm has achieved a competitive advantage on the legal market, has been recognized by reputable international and Ukrainian guides such as The Legal 500 EMEA, Chambers Global, Chambers Europe, IFLR1000 Energy and Infrastructure, IFLR1000 Financial and Corporate, Best Lawyers, Ukrainian Law Firms, Top 50 Law Firms of Ukraine, Client Choice, The Top 100 Best Lawyers in Ukraine.

The firm received Legal Award 2012 in the nomination of "Law Firm — Breakthrough of the Year". The Firm was a finalist of the Legal Award 2013 in the field of Antitrust, Litigation and Real Estate, in 2014-2016 — in the field of Energy.

Antika's team includes 15 highly-qualified lawyers, who have significant experience of various fields of legal practice.

The key practices of the firm include corporate, M&A, Banking and Finance, Arbitration, Energy, Antitrust, Private Clients, Land & Real Estate, Competition Law, Dispute Resolution, Legal expertise, Infrastructure and Logistics, PPP & Government relation.

The firm's main principles are high quality legal services provided in a timely fashion, strict confidentiality and a bespoke approach to every client's project. Having a good understanding of today's challenging business requirements and a deep knowledge of legal environment we bring an innovative, creative and practical problem-solving approach to all of our work.

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The firm's clients are Ukrainian and international companies doing business in various industries including telecommunications, heavy, chemical, food, automotive industries, subsoil use, complex development, real estate and construction, wholesale and retail, media and sports, banks and financial services market. The following are representative clients: AWT Bavaria, Cadogan Petroleum, Chornomornaftogaz, Esan Eczacıbaşı Industrial Raw Materials, Energobank, Ghelamco, Heitman, Henkel Ukraine, Henkel Bautechnik Ukraine, Ibis Group of Companies, Imperial Tobacco, International Resources Group, Lantmannen Axa, Nadra Ukrayny, Nasosenergomash, ViDi Group, Ukrnafta. The firm also advises the World Bank, the European Bank for Reconstruction and Development, USAID, TACIS, UNDP, KfW, NEFCO on energy efficiency, utility and other projects being implemented in Ukraine.

The firm's partners possess many years of experience in providing business law advice. They are the members of national and international professional legal organizations, in particular the International Bar Association.

Antika is a member of the Ukrainian Chamber of Commerce and Industry, the Kyiv Chamber of Commerce and Industry, the American Chamber of Commerce in Ukraine, the Canada-Ukraine Chamber of Commerce, the European Business Association, and the International Turkish Ukrainian Businessmen Association.

ceedings. The Supreme Court consists of the Grand Chamber of the Supreme Court, the Administrative Court of Cassation, the Economic Court of Cassation, the Criminal Court of Cassation, the Civil Court of Cassation.

Each court of cassation has chambers on separate categories of cases with regard to the specialization of judges. The number and specialization of chambers are defined by the decision of the assembly of judges of the court of cassation in accordance with the procedure established by law. However, separate chambers must be created 1) in the Administrative Court of Cassation for consideration of cases regarding taxes, fees and other mandatory payments; protection of social rights; the election process and the referendum, as well as the protection of political rights of citizens; 2) in the Economic Court of Cassation for consideration of bankruptcy cases; protection of intellectual property rights, as well as those related to antimonopoly and competition law; corporate disputes, corporate rights and securities.

The Grand Chamber of the Supreme Court, in cases determined by law, review court decisions in a cassation order in order to ensure the uniform application of the rule of law by courts; operates as a court of appellate instance in cases considered by the Supreme Court as a court of first instance; analyzes judicial statistics and studies judicial practice, generalizes court practice.

The Law of Ukraine *On Judicial System and Status of Judges* also provides for the creation of the Higher Anti-Corruption Court and the High Court of Intellectual Property. These courts are specialist courts and will be established after the adoption of relevant laws, which will regulate their activities.

Within the framework of judicial reform, Ukraine's procedural legislation underwent fundamental changes aimed at improving the judicial process, which directly affected the legal status and functioning of courts. So-called "e-justice" is now being introduced in Ukraine. Procedural law provides for the submission of procedural documents and evidence in electronic form, summons and communications to the of-

ficial e-mail of participants in proceedings, etc. Such changes will work after the launch of the Single Judicial Information and Telecommunication System.

The adversarial principle is now not only declared, but also consistently embodied in the special rules of codes of procedure. It stipulates that the main activity in the court proceeding should come from the parties, and the court acts only as an arbitrator, guiding the course of the trial and assisting the participants in the trial in the exercise of their rights.

In Ukraine, the Constitutional Court of Ukraine acts as a body of constitutional jurisdiction, which ensures the supremacy of the Constitution of Ukraine, decides on compliance with the provisions of the Constitution of Ukraine, laws, other acts, international treaties of Ukraine, declares issues proposed for adoption at an all-Ukrainian referendum via the will of the people, issues official interpretation of the Constitution of Ukraine and certain other functions. The Constitutional Court of Ukraine has a Grand chamber, two senates and six colleges.