

Justice in exile



**Observance of the right to a fair trial
in the east of Ukraine, including the territory
that is temporarily not controlled
by the ukrainian government**

The report is prepared by the Center for Civil Liberties
under the auspices of the Coalition of Public Organizations
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PERSONS WHO ALSO CONTRIBUTED TO THE PREPARATION OF THE REPORT:

**Public trial monitoring expert *Yasenovska Maria*,
lawyer *Tetyana Matyash*,**

FIELD MONITORS RESEARCH:

Donetsk region: ***Leonid Stoikov, Vyacheslav Kuchin,
Andriy Storog, Oleksiy Plotnikov***

Lugansk region: ***Oleksandr Yaroshchuk, Oleksiy Skorbach,
Anna Stulska, Andriy Averchuk.***

**With respect to issues arising on this report,
or for making comments and feedback,
please contact the following address ccl.com.ua@gmail.com**

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CONTENTS

INTRODUCTION.	
MONITORING GROUP AND METHODOLOGY	4
THE FUNCTIONING OF COURTS IN THE DONETSK AND LUHANSK OBLASTS	6
<i>Donetsk Oblast</i>	6
Krasnoarmiysk City and District Court.....	7
Dobropil District Court	9
Dzerzhinsky City Court.....	10
<i>Luhansk oblast</i>	11
Popasna District Court.....	12
Novoaidarivsk District Court.....	14
Lisichansky City Court	15
PROCEEDINGS IN THE “DNR” AND THE “LNR”	16
CONCLUSIONS and RECOMMENDATIONS.....	19





INTRODUCTION. MONITORING GROUP AND METHODOLOGY

During December 2015 – January 2016 a group of monitors of the Center for Civil Liberties with the support of the UN Development Program in Ukraine in the framework of activities of “Justice for the Sake of Peace in Donbass”¹ Coalition of NGOs and civic initiatives conducted the next stage of the study of human rights during the armed conflict in the East of Ukraine. The group consisted of 10 monitors and besides the employees of the Center for Civil Liberties it included lawyers, community activists, volunteers.

The aim of the presented research work was the study of the situation with respect to the right to a fair trial and the conditions of access to court in the territory of the East of the country, which emerged as a result of armed conflict in the territory of Luhansk and Donetsk Oblasts of Ukraine. The main **tasks** were the evaluation of the suitability of existing courthouses for regular operation, their staff completeness, archives maintenance and local infrastructure ramification in view of citizens’ unhindered access to court. Special attention was given to the collection of available information about the observance of the right to a fair trial and the operation of the courts in Ukraine’s non-controlled areas of Luhansk and Donetsk Oblasts, as well as to the operation of the courts during the warfare and occupation.

The monitoring group, which consisted of 2 sub-groups that worked simultaneously at different places in the area of ATO,

visited the Territorial Directorate of the State Court Administration of Ukraine in the Donetsk and Luhansk Oblasts, courts in Krasnoarmiisk, Dobropillia, Dzerzhynsk, as well as Popasna, Lysychansk and Novoaidar. During the visits, the group met with judges, court administration staff and visitors, as well as conducted its own observations of the situation. In the course of work the group engaged technique of unstructured interviews, observation maps, photo and audio documenting. The group also handled a number of public sources, including the website of the judicial branch. Part of the interlocutors, who provided consent

to communicate with monitors, refused to call their names, referring to safety concerns², which corresponds to the general situation with carrying out human rights monitoring in the region due to the ongoing armed conflict with its immanent high level of violence and intimidation, as well as unpredictability of further development of events.

As known, due to the ongoing warfare part of the courts turned out in the Ukraine’s non-controlled area, there are also courts, the operation of which was suspended in order to preserve the life and health of judges, office personnel and visitors to the court, and consideration of the defendants’ cases was transferred to other courts in peaceful areas³. Appellate courts and district administrative courts were moved from Donetsk to Artemivsk, Sloviansk, Kramatorsk, and those from Luhansk were moved to Severodonetsk, economic courts of the oblasts resumed their work



1 The aim of the “Justice for the Sake of Peace in Donbass” Coalition, which includes 14 civic organizations and initiatives, is data documenting and creating a unified electronic database that could serve as a source of primary information about the committed crimes within the framework of national and international investigations, as well as publishing regular thematic reports regarding human rights violations and restrictions of fundamental freedoms.

2 A similar situation was traced in the previous reports of the monitoring group with regard to shelling of the «green corridors», abductions and torture of people in the north of Luhansk Oblast, searching for missing people and operation of DNA centers.

3 The order of the Chairman of the Supreme Special Court of civil and criminal cases dated 02.09.2014/ No. 27/0/3814 – www.sc.gov.ua/ua/rozporjadzhennja_vssu_pro_viznachennja_teritorialnoji_pidsudnosti_sprav.html-3814.

in Kharkiv. A significant number of courts of Donetsk and Luhansk Oblasts stopped and resumed their operation, consideration of cases being moved to other courts. There are courts that have undergone this procedure several times transferring their cases to various courts. At least 15 courts of Donetsk and Luhansk Oblasts besides their own cases handle the cases of 2 or more other courts. The situation is directly linked to the presence of Ukraine's control over a certain territory or inhabited locality and the availability of appropriate security for the operation of the court in view of the warfare progress and its geography. Information on transfer of cases is available on the website of the judicial power⁴. According to its data there was compiled Table of Court (or Case Consideration) Transfers in the ATO zone that is presented in the Annexes.

It is obvious that in such a situation there appears a number of problems, which were singled out to explore. Monitoring group based on the assumption that there may be problems of 4 categories: court premises, court office personnel and judges, maintaining archives, infrastructure and access to the court from remote areas. Accordingly, it was admitted that access to courts and implementation of the right to a fair trial are complicated by the following factors:

- **Premises** – premises of a court that are not suitable for additional workload (due to case transfer) or damaged during the warfare;
- **Court administrative personnel and judges** – understaffed, the workload on the existing judges increased, additional funding in view of cases transferred from the dangerous areas is not provided;
- **Archives maintaining** – archives partially remained in non-controlled areas or were not saved;
- **Infrastructure** – operation of long-distance transport, post office and banking system in the area remains unsatisfactory, that often renders applying to court impossible for residents of those areas where the court operation is terminated and the consideration of cases is transferred to another court.

Among other things, the monitoring group was trying to find out:

1. Have proper justice proceedings in the Donetsk and Luhansk Oblasts been established to date or not?
2. What happened to the cases that were already open before the time of the occupation?
3. How can currently a resident of the occupied territories apply to court?
4. Which courts were moved?
5. How the respective archive is transported and distributed?

6. What is the workload on judges and is there enough staff available?
7. Do the court premises match the minimum requirements for carrying out justice proceedings?
8. Where the courts were during the time of occupation and had they made any decisions?
9. Did the judges pass a qualification assessment after the occupation?
10. Is there a possibility of official correspondence with the ATO zone?
11. Which way is the execution of a court's decision provided on the occupied territory?

Separately highlighted was the issue of delivery of justice in the Ukraine's non-controlled areas. Here it is worth noting that in the territory controlled by the so-called "LNR" (Luhansk People's Republic) and "DNR" (Donetsk People's Republic) before September 2014, the courts made decisions "in the name of Ukraine" and cases appeared in the Unified State Register of Court Decisions.

As a matter of fact, this study is a snapshot of the situation and do not pretend to be a fundamental and all-round. Collected materials confirm the hypothesis of the existence of the problem and illustrate its manifestations, which enables focusing government and public efforts on resolving it. Analytical data is the first attempt to assess the situation regarding courts operation in the East of the country and describe the difficulties caused by the warfare that cannot be eliminated by the court system alone. It is obvious that among the number of outlined issues there is a row of issues common to the whole judicial system of Ukraine, existence of which does not depend on the warfare in the region and case transfer to other courts. Most of these issues are associated with low availability of courthouses for groups of limited mobility and people with disabilities, inadequate level of awareness about the court operation, the lack of understanding of the necessity of taking into account the basic needs of visitors and the poor logistics of the workflow. These issues have also found their reflection in the monitoring report, but they were not the subject of the key consideration.

It is worth noting that the monitoring group did not set a task of revealing the separatist sentiments, promoting lustration of judges and any assessment of the quality of their work, but only a description of problems that the judges, the court personnel and its visitors faced in connection with the warfare and how it affects the performance of its obligations by the State of Ukraine in part of ensuring the right to a fair trial and unhindered access to court for everybody. Judging from the data of the monitoring visits, one can make a simple conclusion that the situation with respect to the right to a fair trial in Luhansk and Donetsk Oblasts will for a rather long time require careful attention of the human rights community and detailed monitoring of specific problem situations that are described below.

4 court.gov.ua



THE FUNCTIONING OF COURTS IN THE DONETSK AND LUHANSK OBLASTS

Donetsk Oblast

The Territorial Directorate of the State Court Administration of Ukraine in Donetsk Oblast is located in the premises of the Sloviansk District Court of Donetsk Oblast. Staff of the institution numbers 12 employees. Court premises availability—full. The premises of the TDSCA are warm, dry and clean. Renovation is not needed. Access to the premises is not equipped for persons with disabilities; it is located on the third floor of a high-rise.

According to Tetiana Tsyhankova—Chairman of the Territorial Directorate of the State Court Administration of Ukraine in the Donetsk Oblast, all courts of the Donetsk Oblast before transfer of jurisdiction with regard to certain courts in September 2014, operated in the ordinary course. Illegal armed formations did not intervene in the courts' operation.

After transferring the jurisdiction of certain courts in the occupied areas, they cease to function as courts of Ukraine. No one tried to take the archives of those courts out of the occupied territory, because it would be dangerous for the life of the court employees. No one passed

over the current case proceedings from the occupied territories. According to unofficial messages, presently the facilities of the courts in the occupied areas are used for conducting quasi-proceedings on behalf of the so-called “DNR” involving some former judges of Donetsk Oblast.

After transferring jurisdiction, staffing of the courts, to which new jurisdiction was transferred, was increasing not in proportion to the additional jurisdiction, but only within the limiting number of these courts established by law. For example, the approved quantitative structure of the judges within the oblast area varies from 3 to 22 persons⁵. At that, to this day 19 court vacancies in the oblast are open.

Judges from the occupied territories were transferred not in accordance with the transferred jurisdiction, but across the whole Ukraine to fill the available vacant positions.

Due to transfer of jurisdiction of other courts, the workload on the judges of the existing courts has increased approximately twofold. There are not always enough available courtrooms, part

of the sessions being run in the chambers of the judges. There are not enough available individual rooms for judges, assistants and secretaries. The judges work in the same premise with assistants and secretaries.

Justice is carried out in the usual way. The cases regarding the citizens living in the area controlled by Ukraine, as well as those living in the occupied area are considered. For submitting claims and other documents the inhabitants of the occupied territories have to travel to the territory under Ukraine's control, and apply to the Office of the Court in person or by mail sent from the territory of Ukraine. Payment of court fees and costs is carried out through bank branches and the terminals located in the Ukraine's controlled territory, as well as through the Internet with a bank card at the judiciary web portal without leaving the occupied territory.

Copies of decisions and other procedural documents are issued only for those cases that are available in existing courts. For other cases, copies of decisions and other procedural documents are issued only through the procedure of recovery of the lost case proceedings.

5 www.dsa.court.gov.ua/userfiles/file/DSA/2014/Nakaz133/Nakaz133.pdf.



Krasnoarmiysk City and District Court



Krasnoarmiysk City and District Court

To this Krasnoarmiysk City District Court the jurisdiction of the Maryinka District Court of Donetsk Oblast since 06.04.2015 and that of the courts of the occupied territory, namely the Budionivsk District Court of Donetsk and the Kirov District Court of Donetsk since 02.09.2014.

1. The condition of the building and the premises of the Court

According to the results of the external review and opinion of the court employees, the building is in satisfactory technical condition. Recently the premises were redecorated, the heating was repaired. The premises of the court are warm, dry and clean. The front stairs need repairing. On the existing steps a ramp for persons with disabilities cannot be installed. The ramp was purchased, presently it is stored in the courthouse in disassembled condition.

From the outside the courthouse is not guarded. In the entrance area inside the building there is a security desk, where at the time of a visit in December 2015, there was one security guard. The windows of

the first and second floors of the court are barred from the outside.

In the visitors area there are information boards available for visitors, which contain information about the work hours of the court, the judiciary schedule, case statuses, as well as samples of the procedural documents. Also there is a sufficient number of chairs and benches for visitors. In one of the courtrooms designated for the consideration of criminal cases, there is installed a cage for defendants that does not comply with the international conventions and the CPC of Ukraine. There is a toilet room for staff. Toilet room for visitors is not available.

According to the employees of the court, logistical support of the court is insufficient. Due to transfer of jurisdiction of other courts, the workload on the judges has increased approximately twofold. There are not enough available courtrooms, part of the sessions being run in the chambers of the judges. There are not enough available individual rooms for judges, assistants and secretaries. The judges work in the same premise with assistants and secretaries. For the organization of the court operation

in a normal manner, at least two more courtrooms and two chambers for judges are needed. It is desirable to arrange individual rooms for judges, their assistants and secretaries.

2. Judicial corps and Staff

Judicial corps consists of the Chairman of the Court, the Deputy Chairman of the Court, and eleven judges including one female judge transferred by the Presidential Decree from the Maryinka District Court of Donetsk Oblast. There are two vacancies of judge available.

Three judges of the Maryinka District Court were transferred by the Presidential Decree to other courts of Ukraine.

06.11.2015 there was issued the President's Decree on changing the location of the Maryinka District Court from Maryinka to Kurakhove. Currently organizational actions are being implemented, such as personnel recruitment and equipment of suitable premises for the purpose of resuming operation of the said court. It will allow transferring some of the cases from the

Krasnoarmiysk City District Court, reducing the workload on it, improving access to justice of the inhabitants of Maryinka District and improving its quality.

3. Access of citizens to justice

Justice is carried out in the usual way. The cases regarding the citizens living in the area controlled by Ukraine, as well as those living in the occupied area are considered. For submitting claims and other documents the inhabitants of the occupied territories have to travel to the Ukraine's controlled territory, and apply to the Office of the Court in person or sent from the territory of Ukraine by mail. Payment of court fees and costs is carried out through bank branches and the terminals located in the Ukraine's controlled territory.

Correspondence with the occupied territories is not carried on, the procedural documents are not sent to there, the court decisions in the occupied territories are not executed. Information about the time and place of the case consideration with the participation of the persons residing in the temporarily occupied territories, is hosted exclusively on the court website. According to the opinion of the court employees, they are not aware whether the courts on the occupied territory operate and whether the court decisions are executed.

Taking into consideration the specifics of the location of residential areas of Maryinka District of Donetsk Oblast,



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Krasnoarmiysk City and District Court

inhabitants not of all settlements are able to get from the Ukraine's controlled territory to Krasnoarmiysk by public transport.

4. Transfer of cases in connection with the warfare

Regarding the Budionivsk District Court of Donetsk and the Kirov District Court of Donetsk, the jurisdiction of only new cases was transferred to Krasnoarmiysk Court of Donetsk Oblast. Case proceedings in all cases which have been opened before 02.09.2014, as well as the archives of these courts were not passed passed.

Regarding the Maryinka District Court of Donetsk Oblast, only those cases which were in proceedings of the Pokrovske District Court of Dnipropetrovsk Oblast by 06.04.2015 were transferred to Krasnoarmiysk City District Court of Donetsk Oblast. Accordingly, only criminal cases which were in proceedings of the Maryinka District Court of Donetsk Oblast by 02.09.2014 were transferred to Pokrovske District Court of Dnipropetrovsk Oblast. Cases of other jurisdictions as of 02.09.2014 were not passed over to the Maryinka District Court, and the proceedings in them are not carried out. Resolutions on the suspension of the proceedings were not adopted. Archive of the Maryinka District Court was left in locked premises in Maryinka. The building of the Maryinka District Court is partially damaged by shellings, the case hearing in it without prior repairing is not possible. Any purposed protection of the courthouse in Maryinka is not provided. During the time since 02.09.2014 from the said building the unknown persons stole some pieces of office equipment.

Copies of decisions and other procedural documents are issued only for those cases that have been taken to the Krasnoarmiysk District Court. For other cases, copies of decisions and other procedural documents are issued only through the procedure of recovery of the lost case proceedings.



FROM THE ARCHIVES OF MOBILE MONITORING GROUPS OF CCL



Dobropil District Court



Dobropil District Court

The consideration of the cases of the Avdiivka City Court and the Khartsyzsk City Court of the Donetsk Oblast were transferred to Dobropil District Court.

1. The condition of the building and the premises of the Court

Two-story building from the outside gives the overall positive impression: the building is clean, with new windows, the surrounding territory is well groomed. The impression is that in the recent past it was renovated.

One can enter the building without hindrance, security personnel is absent, identity of the visitors is not ascertained. The courtroom is light. The hallways are wide, information board, which is readily visible from the entrance, contains a wide range of information, in particular, reception hours, sample applications, available infographic drawings explaining principles of judicial system operation, etc. Also in front of the information wall there are tables and chairs, which simplifies the use of provided information by the visitors. The building is adapted for people with disabilities, there is a ramp at the entrance, and on the first floor there is a courtroom, the doors of which, in particular, allow entry for a wheelchair. The court has four courtrooms, three of which

have been renovated and redecorated, have a transparent defendant dock – not just a barred cage. The courtrooms are equipped with wide enough benches for visitors, individual seats for observers are not available.

2. Judicial corps and staff

The Dobropil City District Court under the directive of the Chairman of Higher Specialized Court caters to the residents of the territory of Khartsyzsk and Avdiivka City Courts of Donetsk Oblast. In connection with the transfer of territorial jurisdiction its staff was not increased and consists of 13 judges, 9 of which actually work, the rooms are designed only for 10 ones. There are not enough available courtrooms to satisfy the needs of even existing 9 judges, especially, with a significant increase in the workload in connection with the transfer of the territorial jurisdiction of Khartsyzsk and Avdiivka City Courts of Donetsk Oblast. Secretariat personnel numbers 45 people. President and spokesperson of the court noted that there are vacancies only for non-specialized positions: secretariat, office personnel, but according to the information of Judicial Power web portal, there are vacancies for three secretaries of

court and one secretary of court session. Perhaps, the relevance of the information provided on the website can be questioned.

All judges are residing in the Ukraine's controlled territory. One judge was transferred from the Crimea.

According to the President and the spokesperson of the court, the lustration was held in the strict compliance with the requirements of the Law of Ukraine on Cleansing of the Authorities and Restoration of Trust to Judicial Power. No claims and issues as for lustration performance were reported.

3. Access of citizens to justice

Accordingly, the opportunities of engaging witnesses, other participants to the court process, notices of case hearings, etc. are extremely limited and taken through the media of the official printed or online sources. Forced bringing to court is not possible. Citizens have the opportunity to pay court fees only in the Ukraine's government-controlled territory, or upon availability of access to the Internet. Cases of citizens coming to the court from the territories of the Avdiivka and Khartsyzsk City Courts are extremely rare.

4. Transfer of cases in connection with the warfare

The court has an opportunity to consider only the new cases from the temporarily occupied territories, or those, decisions on which were challenged and transferred for reconsideration by a higher authority, since the archives of Khartsyzsk and Avdiivka City Courts of the Donetsk Oblast were not relocated, no closed cases, nor open ones by the time of the occupation. There is no information about the archives status at the moment, nor about attempts to destroy them.

The lack of archives and any connection with the courts in the occupied territories causes a significant complication to recover lost proceedings what became common practice after the transfer of the territorial jurisdiction from the occupied territories, a reconsideration of the cases of Khartsyzsk and Avdiivka City Courts of the Donetsk Oblast appealed in a higher court, as well as cases where party (-ies) is/are residing in the occupied territories, possess controversial property, etc.



Dzerzhinsky City Court



Dzerzhinsky City Court

Dzerzhinsky City Court under the directive of the President of Higher Specialized Court caters to the residents of the territory of Proletarsky and Leninsky Districts of Donetsk.

1. The condition of the building and the premises of the Court

A two-storeyed building located next to the building of Dzerzhynsk City Police Department. The exterior shows minor damages to the building, there are some broken windows. The courtroom is not readily available to people with disabilities, ramps are absent, hallways are narrow.

The security guard is missing, one can enter the court unchecked, and no one is trying to identify visitor's person, nor the purpose of the visit, which is unsatisfactory in view of the immediate proximity of the town to the line of delimitation. Premises are badly lit, the information board contains a limited amount of information, and is hard to see without using one's own light source. The courtrooms are equipped with row seats for visitors and participants of the process and the isolated defendant dock, individual seats for observers are not available. One can find out the office operation hours only by asking. Copies of

the court decisions shall be issued only on Tuesdays; in the opinion of the Chairman of the Court, it is due to lack of staff and the significantly increased load on the court. Access to the office is free, there was no queue at the time of monitoring. In the corridors there are benches for waiting. Access to the toilet is free, but it is in poor condition.

2. Judicial corps and staff

The court was allowed to add 4 vacancies of judges, that increased the judges staff from 10 to 14, but these vacancies are not filled. At the time of monitoring 6 judges were at work (commission of the rest, according to the usual staff schedule, had expired, and one judge is under indictment as per article 368 of the Criminal Code of Ukraine), which is not enough due to increase of workload per judge at least twofold (exact data at the time of monitoring was not available, since the annual report was in the process of preparation). At the moment there are vacant positions of: 4 judges, 4 assistants for them, 4 secretaries of the court sessions, 2 masters of the court and technical staff.

All the judges reside in the Ukrainian government controlled areas and are local inhabitants.

Primary lustration was held in the form of interviews, questionnaire surveys, there was created a Commission, which did not deal with the judges, but only with the court office personnel. No claims as for primary lustration performance, according to the Chairman of the Court, were reported.

3. Access of citizens to justice

The court has an opportunity to consider only the new cases from the temporarily occupied territories, or those, decisions on which were challenged and transferred for reconsideration by a higher authority, since the archives of Proletarsky and Leninsky District Courts of Donetsk were not relocated. There is no information about the archives status at the moment, nor about attempts to destroy them. Access to the occupied territories does not exist, including a postal connection. Accordingly, the opportunities of engaging witnesses, other participants to the court process, notices of case hearings, etc. are extremely limited and taken through the media of the official printed or online sources. Forced bringing to court is not possible. Citizens have the opportunity to pay court fees only in the Ukraine's government-controlled territory, or upon availability of access to the Internet.

4. Transfer of cases in connection with the warfare

The lack of archives and any connection with the courts in the occupied territories causes a significant complication for consideration of cases regarding recovery of the lost proceedings that became common practice after the transfer of the territorial jurisdiction from the occupied territories, reconsideration of the cases of Proletarsky and Leninsky District Courts of Donetsk appealed in a higher court, as well as issuing copies of their judicial decisions. However, there appeared practice, if a judicial decision is registered in the Unified State Register of Judicial Decisions, of issuing copies of the decisions of these courts under the court's seal.

In the period of the occupation the court considered only civil cases; consideration of the criminal ones was not possible because the law-enforcement agencies did not function.

Luhansk oblast

According to Igor Savchenko, Chairman of the Regional Office of State Court Administration in the Luhansk Oblast (located in the city of Rubizhne), consideration of legal cases is in accordance with the procedural rules. 99% of the courthouses are adapted, including the ones that were rebuilt to comply with the regulations and standards as for courthouse buildings. That is, 14 courts that operate in the Ukrainian government controlled areas (the 15th Stanichno-Luhansky District Court is out of operation), are adapted to court proceedings requirements.

At the time of monitoring the courts do not have substantial problems with premises and office equipment. The judges, who have moved from the occupied territories, rent housing at their own cost, as the official accommodation for them is not available.

In the area close to the line of collision, are Popasnyansky, Stanichno-Luhansky District Courts. The latter court is out of operation, two-thirds of its archives were relocated. In Popasna during the shelling the court staff had to hide in the basement. Despite the threat, by the decision of the TDSCA, operation of the court is renewed. One of the reasons is the need to provide financial support to court employees, for whom their work for the court is the only source of income. So even on days when shellings were going on, there always was a judge on duty along with several members of the staff. By the decision of the Chairman of the TDSCA Popasna District, the court

was furnished with three positions of night-time watchmen and one position of day-time master of court.

The number of judges in the Ukrainian government controlled areas increased (it is about courts, which were given the jurisdiction to consider cases from the courts located in the occupied territories). The staff of courts in Luhansk Oblast increased in number: on the orders of SCA of Ukraine No. 135, No. 133 the staff of courts in Luhansk Oblast increased in number by 34 staff positions, of which 32 are filled with judges who moved from non-government controlled areas. There remains 2 vacant positions. At present 113 judges moved in total to the government controlled area of the Luhansk Oblast.

All the judges exercising jurisdiction on the territory of Luhansk oblast, are to pass lustration and anti-corruption check, fill out and submit the property ownership and income declarations. Cooperation with the judges, who remained on the temporarily occupied territory, is not maintained. The exact number of judges remaining in the non-government controlled area of Luhansk Oblast, as well as the number of those who are collaborating with the so called "LNR" is not exactly known.

Due to the increase in personnel numbers of the courts, available space does not comply with the requirements established by the law. To resolve this issue, additional construction or reconstruction of the court premises is required, however, in the 2013–2015. capital expenditures for such purposes are not envisaged.

Luhansk oblast courts are financially secured. All the funds provided for the functioning of the judicial system in 2015 had to be used before December 28–29. Courts and judges are fully provided with consumables, postal stamps, office paper, computers, judges' robes, lapel badges, symbols of State power.

October 31, 2014, 22 of 25 employees resigned from the TDSCA in Luhansk Oblast. After the Directorate moved from Luhansk to Rubizhne, new staff was formed consisting of 16 persons, 8 of which are migrants.

Griffon unit, which is currently liquidated due to the reorganization of the Ministry of Internal Affairs (MIA), provides protection to only part of the courts. For example, the unit does not provide protection of Popasna District Court. Since the unit is formally liquidated, the issue of creation of the State Security Service within the judicial system is being resolved. To date the formation of the management of the judicial security service is underway, the issue of funding is being resolved. Currently, the Gryphon unit remains only in 9 courts of the Luhansk oblast.

Only due to personal relations of the Chairman it was able to save $\frac{2}{3}$ of archives transported on the military vehicles from the District Court of Stanitsa Luhanska. Other courts did not have such an opportunity. No one possesses true and full information on what happened to the archives and current proceedings documents. Proceedings of the district courts remained in the occupied territory.



Popasna District Court

The court worked in the ordinary course until July 2014, although at the moment the authorities of Popasna were actually controlled by the illegal armed formations. Authorities, including courts, continued to operate. No one ever came to the Popasna District Court with any demands. The Court rendered decisions in the name of Ukraine. The situation changed after the liberation of Popasna, which was accompanied by warfare. In August-September of 2014, the court was almost out of operation. When the situation had normalized, cases increased in number. People however were not coming back. The work load in the second half of 2014 was much less. In January-February 2015 the hostilities resumed—Popasna was almost deserted. The court, however, kept working. In case of necessity, when there were urgent matters related to criminal proceedings, the judges went to work to extend the period of detention, to take urgent actions, etc. In March 2015, the situation settled down again. The Court started working again in a standard mode.

To date proceedings cover quite a lot of cases. The territories, which geographically belonged to the jurisdiction of the Pervomaisky District Court, in particular, villages Zolote, Toshkivka, Novotoshkivka, added up. Reducing the activity of the citizens is compensated by the increase in its number.

Criminal cases where individuals are under arrest, the District Court forwards to the Appellate Court of Luhansk Oblast for determining their jurisdiction, because currently, the Court is not capable of providing adequate protection.

Temporary detention facility (TDF) is still not working due to security issues.

Problems with delivery of the defendants began in May 2014. According to the police representatives, police could not provide escorting, because their weapons were taken away at the nearest checkpoint. In this regard, it was impossible to deliver the accused to the court sessions. Today the accused are delivered from Starobilsk.

To resolve the issue with the delivery of the accused, the Court developed the practice of considering cases via videoconferences with the consent of the person. But there are also such cases, where persons refuse from video conferencing.

Despite these organizational actions, the issue of ensuring criminal process, especially the delivery of the accused to the courtroom, is an acute problem.



Popasna District Court

1. The condition of the building and the premises of the Court

Under the infrastructure and material security angle of view, the Court has all the necessary features for the proper proceedings. First of all, the Popasna District Court during 2014–2015 has not had to change the premises of the Court. Today there is enough room for judges and court office personnel in the court premises. All judges have private rooms equipped with office equipment, furniture, consumables, symbols of State power.

There are no queues in the hallways, although this is due to two independent of the Court's operation quality factors: its proximity to the line of collision and massive departure of the population to other areas.

In the Court there is a fully equipped and well-adapted courtroom.

Windows which had been damaged as a result of the bombardment in autumn 2014 and winter 2015 were replaced. According to an employee of the archive, the archive premises is suitable for preservation of legal documents. In the archive's operation no problems were detected.

It is worth noting that the premises of the Court is old, there are multiple cracks that need to be eliminated. However, humidity level in the premises, in particular in the archives, is not too high to be a threat to the Court's documentation.

Although, according to Chairman of the TDSCA there is security in the Court,

the monitoring group have not proved it in fact. Access to the premises of the Court is unimpeded.

The building is partially accessible for people with disabilities. For example, there is a ramp. However, the hallways in the building of the Court are narrow.

2. Judicial corps and staff

Judges staff composition has not changed. One vacant position is taken by a judge from Pervomaisk. The court staff composition has changed by half. Most of the posts occupied by persons displaced from Pervomaisk formerly employed in the Pervomaisk Court.

Since in the area there is no specialized police force, it was proposed to the Court administration to provide additional financing to hire watchmen for the monitoring period (3 full time employments).

3. Access of citizens to justice

President of the Court reported that there were cases when the Court previously sentenced persons to the real terms of punishment, but, due to the fact that they were serving punishment in the occupied territories, it happened several times that these individuals were subsequently seen at large (they of course were detained when there was a possibility, but the issue of serving punishment remains open, after all, it is not known from which date they

are at large, whether this action of theirs should be included in the sentence term, or whether it is an issue of the re-conviction for avoiding punishment, etc).

Popasna District Court considered two cases of ascertaining the fact of birth and two cases of ascertaining the fact of death.

Cases, territorial jurisdiction of which belongs to Pervomaisk District Court, were handed over to Rubizhansk City Court. While the Supreme Specialized Court of Ukraine was redistributing the territorial jurisdiction of the courts, the issue of prolongation of commission of the Popasna District Court was not resolved.

Delivery of persons from the non-government controlled areas is impossible. One of the judges had a case where it could potentially become a problem, however it was started before the war and all the witnesses had been interviewed.

Notifying of the parties is carried out under general rules via the press. Often there occurs a problem of notifying people even residing in the Ukrainian government controlled areas, owing to the fact that postal is not always available.

The Court also uses the following means and methods of notifying the parties: 1) providing contact information of the defendant, bringing the defendant to court; 2) notifying the party through a telephone message; 3) notifying the party through a message on the website of the Court.

If the person does not appear, he/she shall be informed basing on the place of residence by all possible means.

The Court takes a decision, but handing in a copy of the decision through the press



is impossible. There is a problem: the plaintiff, on the one hand, has the right to a fair trial, which includes the execution of judicial decisions, and on the other hand, the law does not answer the question, what is to be done when a copy of the decision is not delivered to the address of residence of the defendant. Essentially, the plaintiff loses the right to a fair trial.

The Court made a decision on the notifying the defendant of its decision through the website. The Court tried several times to deliver the decision by mail. If the person becomes aware of the decision, he/she has the right to apply for cancellation of the judgement by default. One of the judges had a case when a person applied for the cancellation of the judgement by default a year later. The appeal period was recommenced. Thus, the decision can be taken, but the person must be provided with the right to effective retrial in his/her participation.

4. Transfer of cases in connection with the warfare

The Chairman of the Popasna District Court pointed out that during the occupation the District Court “missed” attention of terrorists. Thus, neither archive, nor other judicial documents (decisions, proceedings, etc.) had not been affected. Even Ukrainian flag and coat of arms in her office remained intact. At the same time, for the said District Court there is a problem of ensuring proper protection.

During the hostilities only one civil case was gone from the Popasna District Court.





Novoaidarivsk District Court



Novoaidarivsk District Court

Since November 2014 it resumed its operation.

1. The condition of the building and the premises of the Court

Two-storey separate building that looks pretty tidy from the outside, at the entrance there are small damages to the flower beds and stairs visible.

In the entry hall there is a security guard, who inquires about purpose of the visit, requests to produce a photo identification and makes a record in the log of visitors (in accordance with the regulations on the procedure for the admission of visitors to the premises of the Court).

The premises of the Court is warm, light, no wetness felt, audibility is good, space is newly redecorated, information and document samples board is in plain view, along the entire hallway there are wooden benches for the waiting. Access to the office is free, no queues present. Office operation hours are adhered to as scheduled by the Court.

The court room is not readily available to people with disabilities, ramps are absent, hallways are narrow. Public toilet with a free access.

Each judge disposes of an individual room, judges' assistants are in a separate room, also there are available separate premises for all court employees, archive is in a separate basement premises, there are three furnished courtrooms for hearings with special equipment and a defendant's dock.

2. Judicial corps and staff

Litigation in the district is organized in full accordance, staff lists 4 judges, 3 of them constantly are in the workplace (live in Novoaidar), one position of judge is vacant, since as a result of the occupation of Luhansk, judge Inna Malchenko moved to the occupied territory and did not returned to her official duties, her place of stay is uncertain, according to some reports she moved abroad.

The load on judges grew for several reasons: there is understaffing of judges, settlements of Triokhizbenka, Sokolniki, Krymske, Shchastya have been reassigned to the Court for servicing, as well as judges have to constantly consider additional cases involving military personnel (desertion, disobeying the leadership, bodily injury and administrative protocols for alcohol drinking).

By the time of monitoring none of the judges had passed qualifying assessment, nobody fell under lustration.

3. Access of citizens to justice

The inhabitants of the occupied territories can apply to court visiting it personally, and the consideration of the case and announcing decision with consent of the participants of the hearing can be made via online conferences or in absentia under general terms, about what a resolution is taken and an announcement in the official press is made.

4. Transfer of cases in connection with the warfare

The Court worked continuously, except for the work suspension during the bombardment from 4 September 2014 to September 14, 2014. Documents and court employees for all time of ATO were not evacuated. The archive did not move to anywhere, the cases were never gone from the archive. The archive room is in good condition, warm and bright, with specialized shelves and tables.

By the moment, a plan for evacuation in case of emergency has been developed.

The main issue is pre-trial detention of Stakhanov and Bryanka, whose cases were forwarded to the Appellate Court of Luhansk before its occupation, and after the occupation started to the present time the case has not returned, so taking final legal decision as for these detainees is not possible for the Court.

Cases, files of which were under consideration in the judges, and the detained were waiting for decisions while being in the occupied territory, does not have there logical completion. As it turned out later, the defendants, the decisions on their serving sentences had already entered into force, in the occupied territories were released from custody unpunished.

The cases, which involve property in the occupied territory, are improperly dealt with, because even the execution writ cannot be forwarded — postal service is not available, and there is no one to mail it to, because it won't be executed. Therefore, the Court is not able to enforce its decisions on the occupied territory.

Some documents delivered from the occupied territory were on the official forms and contained formerly valid seals with an additional notation "LNR", but without entering them to the registry.



Lisichansky City Court



Lisichansk City Court according to its jurisdiction, considers also cases that are within jurisdiction of courts from the occupied territories of Bryansk, Alchevsk and Perevalsk Districts. The Court operates 10 judges, whereas the staff structure of the court envisages 15 judges.

Judge of the Lisichansk District Court Subbota Nikolay Ivanovich, transferred from the Pervomaisk District Court, agreed to communicate with the monitors and informed that he was one of those judges who after the occupation of the Pervomaisk District transferred to another court. Since he lived in the Popasna District and was employed as a judge of the Pervomaisky District Court, the issue of obtaining accommodation was not relevant for him. After the occupation of Pervomaisk, he never went to work and submitted an application for transfer to another court. During his stay in the forced “vacation” he received a regular fixed salary (fte). In addition, the judge Subbota confirmed the information provided by the Chairman of the TDSCA, as for provision of a working place and necessary office equipment for him. As for the workload, the distribution of cases is carried out by the authoring system.



PROCEEDINGS IN THE “DNR” AND THE “LNR”

In areas that are controlled by so-called “LNR” and “DNR”, there were left many legal cases and materials of the criminal proceedings.

The information database of the MIA of Ukraine, when queried, outputs information that pre-trial restrictions on certain persons were imposed as late as in 2013–2014. And sometimes even earlier (CPC of Ukraine of 1962). At present, pre-trial restriction is still in effect. However, neither the pre-trial investigations nor courts do not consider such cases as the materials are missing and by order of the MIA of Ukraine the investigative bodies were liquidated.

At the same time investigative bodies of “LNR”/“DNR” transferred these cases in accordance with their “own” legislation, i.e., the CPC of Ukraine of 1962, the CC of the Russian Federation. Thus, the challenge will be recovering materials of such cases even after the liberation of the territories.

In 2009 a crime was committed, which is qualified under section 4 of article 187 of the Criminal Code of Ukraine.⁶

In may 2013, the sentence of the Budyonivsk District Court of Donetsk, was cancelled by Appellate Court of Donetsk Oblast, and the case was sent out for the pre-trial investigation. The initial pre-trial restriction was changed to written undertaking not to leave the place of residence (CPC of Ukraine of 1962). In the autumn of 2013 already under the CPC of Ukraine of 2012 the case is once again sent to the Budyonivsk District Court of Donetsk. The trial continued

until the occupation. The case remained in the building of the Court. The defendant moved to the territory controlled by Ukraine.

In the “DNR” the case has been “redone” as per their legislation, the defendant is placed on an “international wanted list”.

On the territory of Ukraine the case is not considered due to the fact that case files are missing. Despite the fact that the CPC of Ukraine of 2012 contains rules about the restoration of the missing proceedings, the pre-trial restriction is still in effect.

Besides, since these cases are not covered by the legislation of the “LNR”/“DNR” at the time, they considered by the so-called judges “in the name of Ukraine”, although at the moment no court of Ukrainian jurisdiction on this territory officially exists.

The Kyiv District Court of Donetsk passed a decree, under which five people are under arrest since 2009. The Court considers the case under the regulations of CPC of Ukraine of 1962⁷.

The case now is considered by the Court of “DNR” that released all the five from custody. The case under the old charges, is considered “in the name of Ukraine”. To date, the consideration of the case in the “DNR” is suspended. Case files are transferred to the “Supreme Court of ‘DNR’” for transferring them to Ukraine. Moreover, people cannot leave for the territory controlled by Ukraine, because according to

the information of Ukraine they are in pre-trial detention center. Defendants would be happy to have their case considered in Ukraine, however, the case was considered under the CPC of Ukraine of 1962, and the procedure of restoration of proceedings is not foreseen there. Therefore, case consideration without its files is impossible.

One should take into account that the criminal legislation of the Russian Federation is very much different from that of Ukraine. Sometimes people of average, in view of Ukrainian legislation, severity of crime now can be sentenced for over 10 years of imprisonment. In addition, unlike the Criminal Code of Ukraine, the Criminal Code of the Russian Federation and that of the “LNR”/“DNR” contain death penalty as a capital punishment.

Especially difficult in view of justice is the situation regarding the persons for whom the courts of Ukraine decided a pre-trial restriction in the form of detention before the occupation of the territories. By courts of “LNR”/“DND” most of these people are released from custody. However, according to the data of the Information Center of MIA of Ukraine, their pre-trial restriction in the form of detention under custody is still in effect. So, while crossing borders they should be arrested and put in pre-trial detention center. Moreover, under our law they have to face a threat of additional charges of escape. And it is so despite the fact that these persons did not commit such crime, and their case files proving their guilt or innocence are missing in Ukraine.

6 According to the information from attorneys

7 According to the information from attorneys

In 2004 a crime was committed, which is qualified under section 3 of article 187 of the Criminal Code of Ukraine.⁸

In 2009, there were detained four people who faced charges and a pre-trial restriction in the form of detention in custody.

17.03.2014 the Appellate Court of Donetsk Oblast cancelled the verdict of the Kyiv District Court, and the case was sent out for the pre-trial investigation, the initial pre-trial restriction was changed to written undertaking not to leave the place of residence (CPC of Ukraine of 1962).

In December 2015 – January 2016 it was informed that Kyiv Police District Department is eliminated. The case record is made in the Register ex post. No person received a notice of suspicion. The investigation is not conducted, because the case files remained in the building of the Kiev Police District Department.

At the same time, according to the data of the Information Center, these individuals are still under pre-trial restriction (according to CPC, of 1962 its effect is unlimited).

By order of the Chairman of the Supreme Special Court of Civil and Criminal Cases dated 02.09.2014, cases, assigned to the jurisdiction of the Kyivsky District Court of Donetsk to be transferred to Pavlograd City District Court of Dnipropetrovsk Oblast.

In this connection there was filed a petition for the cancellation of the pre-trial restriction. The case is pending.

In open sources the information concerning the proceedings in the “DNR” and the “LNR” is almost non-existent. Under the legislation of Ukraine, all the decisions in the cases handled by the courts of Ukraine, are placed in the public domain on the website of the Unified State Register of Court Decisions. However, the courts are located in the occupied territories and are subject to the “DND”/“LNR” do not place information on their decisions neither to USRCD nor in any other open source.

Information in the media about handling cases in the courts of the “DNR” and the “LNR” is extremely fragmented and does not allow to establish the order of the proceedings⁹.

The only open source that provides at least some information about the proceedings in the occupied territories, is the website of the “Supreme Court of ‘DNR’”, which contains general statistical data and generalization of practice in the form of “Decisions of the Plenum”¹⁰. As for the “Supreme Court of ‘LNR’” this information is completely absent.

Also in open sources one can find separate “legal acts” of “LNR” and “DNR”, regulating the operation of their judicial systems, such as the “Constitution”, the “criminal code of ‘DNR’”¹¹, “rules of criminal proceedings in the ‘DND’”¹², the “regulations on military courts of ‘DND’”¹³.

As the Chairman of the Territorial Directorate of the State Judicial Administration in the Luhansk Oblast explained, they keep track of news concerning judges who remained in the occupied territory, including through the “decrees of the chairman of the ‘LNR’”.

Analysis of data and information, though limited, but from the “official” source, gives reason to speak about the efforts of the “LNR” to establish its own judicial system.

“Official website” of the “Head of ‘LNR’” Plotnitsky¹⁴ informs of the organization of the operation of several courts and his appointment of judges. The active phase in the judicial system began in 2015 with “Decree” “On Approval of Regulations of Qualification Board of Judges of the Luhansk People’s Republic” (registration date 14.08.15). What was before this is impossible to imagine, at least basing on the “official” publications (only “official legal proceedings” are meant). October 01, 2015 there was registered “Decree” “On Appointment of Judges”¹⁵, which appointed “presidents”, “deputy presidents” of the military and district courts of the “LNR” and appointed judges of these courts.

October 24, 2015 there issued another “Decree” “On the Commencing Operation of Courts of the Luhansk People’s Republic”¹⁶. November 02, 2015 there appeared a new “Decree” “On Appointment of Judges”¹⁷, which appointed judges of the Rovenkivsky City Court (president and two judges). November 16, 2015 there were issued two “Decrees” “On Staff ID Cards of Court Office Employees of Luhansk People’s Republic”¹⁸ and “On Staff ID Cards of Judges of Luhansk People’s Republic”¹⁹.

December 2015 turned out very “fruitful” in terms of “decrees”, which regulate the activity of the “justice”, in particular, 4 “regulatory enactments”. December 03, 2015 – “On Commencing Operation of Rovenkovsky City Court”²⁰, December 25, 2015 – “On Appointment of Judges” which appoints 6 persons for the positions of presidents, deputy presidents and judges of Rovenkivsky and Stakhanovsky City Courts²¹, December 28, 2015 – “On Commencing Operation of Stakhanovsky City Court”²², December 28, 2015 – “On Changing Territorial Jurisdiction of Cases Handled by the Courts”²³.

That is, the activity of the “Chairman of ‘LNR’” regarding the formation of the “judicial power” features a prominent energy in the background of the “decrees” related to other spheres of life of the occupied territories. The documents issued by the “Chairman of ‘LNR’” list the names of judges, and therefore, the question arises, how many persons from those named in Plotnitsky’s “decrees”, are former judges of the Ukrainian courts. And the main thing – whether they really are former? Will turn so that judges who “administer justice” on the occupied territories by this time are still deemed to be judges of Ukraine and receive a salary instead of a criminal case with regard to themselves? This by all means needs to be found out for a full and objective picture of Justice in the occupied territories, because there arises a question of liability, and in particular, of the legal one. To do so, one needs to make queries, with copies of Plotnitsky’s

8 According to the information from attorneys

9 Examples of descriptions of the work of the courts in the media www.06242.com.ua/article/962127 www.obozrevatel.com/crime/06425-v-dnr-zapretili-upa-lyashko-i-igil.htm www.admin-gorlovka.com/news/1138-ispolnenie-reshenij-sudov-ukrainy-na-territorii-dnr

10 www.supcourt-dnr.ru/sdep/stat/obshchie-pokazateli-raboty-verhovnogo-suda-i-sudov-doneckoy-narodnoy-respubliki-pri-0

11 www.advokaty.dn.ua/criminal-codex-dnr

12 www.xn--80aafh5ax4a2e.dn.ua/publ/ugolovnoe_pravo/ugolovnoe_pravo_uk/pravila_ugolovnogo_sudoproizvodstva_dnr_doneck/75-1-0-108

13 www.constitutions.ru/?p=10200

14 www.glava-lnr.ru/arhiv

15 www.glava-lnr.ru/sites/default/files/pdf/502011015.pdf

16 www.glava-lnr.ru/sites/default/files/pdf/563011015.pdf

17 www.glava-lnr.ru/sites/default/files/pdf/587011115.pdf

18 www.glava-lnr.ru/sites/default/files/pdf/601011115.pdf

19 www.glava-lnr.ru/sites/default/files/pdf/600011115.pdf

20 www.glava-lnr.ru/sites/default/files/pdf/641_bez_pechati.pdf

21 www.glava-lnr.ru/sites/default/files/pdf/jpg2pdf_3.pdf

22 www.glava-lnr.ru/sites/default/files/pdf/695_1_12_15.pdf

23 www.glava-lnr.ru/sites/default/files/pdf/695_01_bez_pechati.pdf

“decrees” enclosed, to the bodies of the SBU (Security Service of Ukraine), the Prosecutor’s Office as well as the State Court Administration of Ukraine and the Higher Qualification Commission of Judges of Ukraine with questions whether the persons administering “justice” in the “LNR” belong to the judiciary corps.

The court fee in the “DNR” is charged on the basis of the Law “On Court Fees” of 20.03.2015²⁴. Fundamentally it is similar to the Ukrainian Law “On Court Fees”. The main difference is the one in the methods of calculating fees. On some positions the fee amount is fixed (in Ukraine, the amount of the fee depends on the price of the claim or is calculated as a share of minimum wages).

Payment of the court fee is carried out through the “Central Bank of “DNR” with the details provided by a particular court, which handles the case²⁵. In addition, according to the information on website of the “Supreme Court of “DNR”, payment of the court fee is possible both in Ukrainian hryvnias and in Russian roubles at the discretion of the person who pays. Information regarding payment of the court fee with a bank card or online in the open sources is not available.

The official correspondence of the courts with the parties in the cases and between themselves is carried out

exclusively in paper form through a branch of the State Enterprise “Mail of Donbass”, or, in some cases, “Ukrposhta”²⁶.

Information on the procedure of collection of court fees and correspondence between the courts in the territory, which is under the control of the “LNR”, is not available.

As one can see, the so-called the “DNR” and the “LNR” significantly advanced in making semblance of state power and its legislative support that relates also to operation of courts. However, the one example (the case files were presented at the Conference of OSCE in Warsaw in 2015) explicitly demonstrates falseness of this legislation and disrespect toward it on the part of the bodies of terrorist groups.

The facts according to the information given in the text of the “sentence”: The person was detained 02.06.2014 at the “DND” checkpoint in the area of Kramatorsk. On the defendant’s own confession, he belonged to the Ukrainian paramilitary organization. As a member of subversive-intelligence group, he received a task to monitor the movement of the “DNR” armed forces in the area of the checkpoint. Being near the checkpoint, the defendant for unknown reasons with a knife attacked two people, whose identity has

not been established and inflicted serious injuries on the two men as a result of which one of them died.

The composition of the Court: Nos, Balu, Sedoi (judges), Zubr (Secretary). Parties to the case: Trifon (for the prosecution), Advokat (for the defense)²⁷.

Applicable law: The Criminal Code of Ukraine, the Criminal Procedure Code of Ukraine, the Decree of the Presidium of the Supreme Soviet of the USSR “On Martial Law” dated 22.06.1941.

The sentence: Death penalty by shooting. The sentence enforced 22.06.2014.

It may be stated that the decision and the procedure not only violate Ukrainian legislation and international law, but also the own “law” of artificial republics. So, according to the “law” of the “DNR” itself, at the time of the pronouncement of the “sentence”, such body as a “Military-Field Tribunal” did not exist, the regulation “On the Military Courts” was adopted by only 17.08.2014. In addition, the death penalty is prohibited by their internal “Constitution.” The persons who made the sentence most likely did not have status of the judges and any special legal training, but they are “DNR” militants.

24 www.dnrsovet.su/zakon-dnr-o-sudebnom-sbore.

25 www.fromdonetsk.net/evgenii-kizernis-o-notariate-v-dnr.html www.supcourt-dnr.su/sudebnyy-sbor.

26 www.advokat-donetsk-jurist.dn.ua/statyi/31-kak-podat-v-sud-zhitelyam-donetska-i-donetskoj-oblasti-kotorye-ostalis-v-dnr-konsultatsiya-yurista-kuda-perenesli-sudy-iz-donetskoj-oblasti.

27 Obviously these names imply noms de guerre of the DNR militants.

CONCLUSIONS AND RECOMMENDATIONS

Courts in the territory of Luhansk and Donetsk Oblasts have the same problems that most Ukrainian courts – too small rooms, understaffing, insufficient funding, premises not suited for people with disabilities, etc. However, in the mentioned areas, all these problems grow more acute and critical. Added is the problem of the violation of the transport, postal and banking infrastructure of the oblasts in areas close to the line of delimitation, and there, where military operations went on.

All of this together makes impossible the implementation of access to justice for residents of such areas because there are no real opportunities to physically get to court or communicate with it remotely, even if the court keeps operating due to its relocation to another, safer place.

1. The transfer of courts from the occupied territories in practice has led to a significant increase in the workload on the individual courts in the Ukrainian government controlled parts of Luhansk and Donetsk Oblasts.
2. The courts, despite the increase in workload twofold, remain understaffed, that is simply unacceptable taking into account the existing queue of those wanting to take a position of a judge.
3. In the courthouses, where the courts from the occupied territories were moved to, there are not enough courtrooms, individual rooms for judges, which greatly complicates the delivery of Justice.
4. Security provision of the courts is inadequate. Although a free access to court is a natural component of the right to a fair trial, in conditions close to war, it makes sense to introduce additional security measures.
5. Unresolved is the problem of transportation of archives that remained in the occupied territories, what leads to the violation of the right to a fair trial and other fundamental human rights.
6. The region's infrastructure, including transport, mail and banking services, requires urgent renovation.

In general, this situation may last only temporarily and needs immediate strategic decision-making for the proper solution of the issue.

The Verkhovna Rada Of Ukraine:

- to support legislatively the initiatives ensuring the right to a fair trial in Luhansk and Donetsk Oblasts. In particular, the provision of opportunities to recover lost proceedings for cases that were handled under old CPC, for example, through the use of analogy of justice.
- To regulate legislatively the procedures that would have allowed judges to consider cases in which the parties or the case files are in Ukraine's temporary non-controlled area.

- To resolve legislatively the issue of notifying citizens about court proceedings in cases, when notifying in the usual way is impossible due to the situation of an emergency nature.

The State Judicial Administration:

- to develop a strategy aimed at recovery of availability of justice in Luhansk and Donetsk Oblasts. This strategy should be based on analysis of the situation in each of the courts, on the basis of which either new premises for operation of the courts

must be sourced, or the staff of the courts, which are already in operation, must be made up to fit the demand. While developing the strategy one should proceed from the fact that the number of courts must meet the real demand of the population in the ATO area in defending their rights and interests.

- To resolve the issue of providing service accommodation to the judges, who were forced to leave temporarily occupied areas. To develop a mechanism for the provision of service

accommodation in accordance with the amendments to the law that were adopted in 2014, which give judges the right to such housing.

- To consider the opportunity to provide employment to judges, who were forced to leave temporarily occupied areas, in particular, through employing them in the courts that were transferred/relocated.
- In front of the Parliament and the Government to raise an issue of the necessity of legislative regulation of additional monetary incentives for judges and court office personnel of the courts in Luhansk and Donetsk Oblasts.
- To promote development of video conferencing in courts and provide the courts with all necessary technical equipment in accordance with the data received from analysis of needs of each of the courts.
- To revise the security measures taken in the courts located in the areas close to the line of delimitation, and to complete court security staffing in full.

The Ministry of Infrastructure of Ukraine

- To consider urgently the issue of recovery of infrastructure and providing residents of areas close to the line of delimitation with opportunities of visiting the court personally and communicating with it by mail. In particular, to provide Internet connection in these areas and create postal service pick-up points.

National Bank of Ukraine:

- To promote recovery of operation of banking outlets in the areas close to the line of delimitation.

Ombudsman (The Verkhovna Rada Commissioner for Human Rights):

- To carry out monitoring of accessibility of justice in Luhansk and Donetsk Oblasts, basing on the monitoring results to prepare Ombudsman's special report.

International organizations:

- To urge continuously the representatives of organized armed groups of the so called "LNR"/"DNR" and those of the Russian Federation to stop the gross violations of the right to a fair trial of people who are in Ukraine's temporary non-controlled areas.
- To participate in the negotiations as for the return of the archives of the courts of Ukraine, which remained in Ukraine's temporary non-controlled areas.
- The Contact Group on peaceful settlement of situation in the East of Ukraine
- To look for ways to return the archives of the courts of Ukraine, which remained in Ukraine's temporary non-controlled areas. To include this issue in the list of topics for discussion during the meetings of the trilateral contact group in the Minsk process.

Civic organizations:

- To take an active part in monitoring the situation in Donetsk and Luhansk Oblasts, primarily to determine the problems of each court, and in the development of strategies to restore the accessibility to justice in these areas.

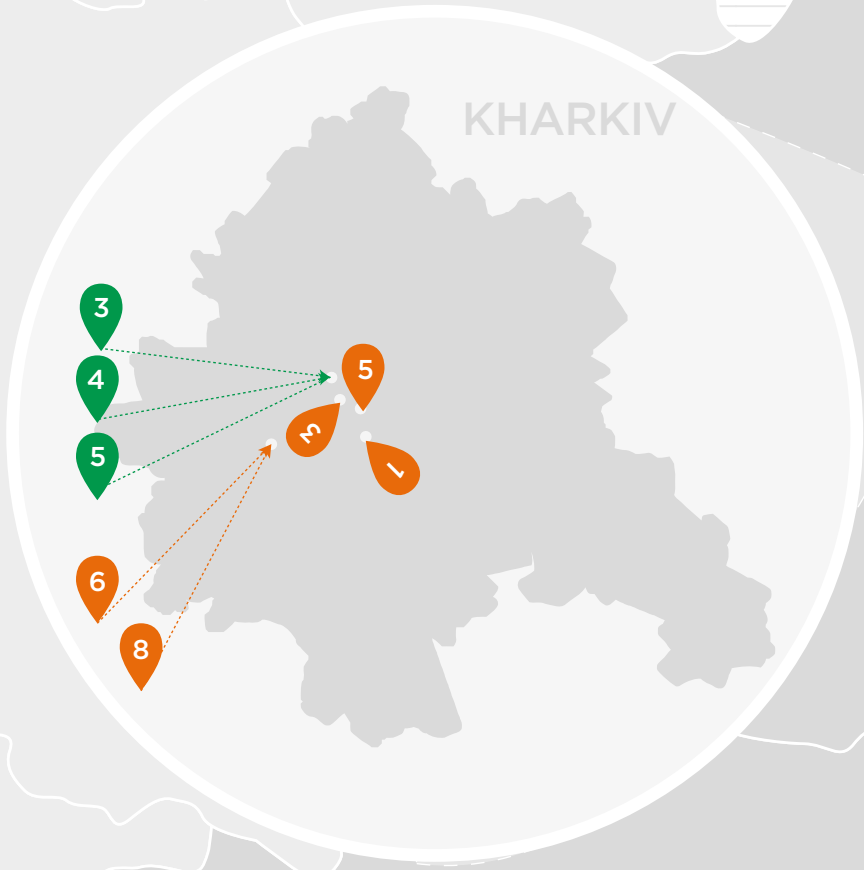


Center for Civil Liberties

Founded in Kyiv in 2007 to promote and strengthen the values of human rights, democracy and solidarity, the principle of human dignity in Ukraine and Eurasia.

The main goal of the CCL is to protect fundamental rights and freedoms. Our organization represents the interests of the society, carrying out control of national authorities and regional authorities on the subject of human rights.

01004 Kyiv
9-G Basseina Str., office 25
www.ccl.org.ua
ccl.org.ua@gmail.com



KHARKIV

KHARKIV

DNIPRO

44

PAVLOHRAD

43

POKROVS

ZAPORIZHIA



35

ORIKHIV

36

POLOHY

40

TOKMAK

37

CHERNIHIVKA

42

BERDIANSK

PRYMORSK

38

PRYAZOVSKIE

EXPLANATORY NOTES

Appellate Courts of General Jurisdiction, Administrative and Economic Courts

Local Courts of General Jurisdiction of Luhansk Oblast

Local Courts of General Jurisdiction of Donetsk Oblast

Temporary dislocation



56

56

Original location



56

56

Current location



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56

The restored original position



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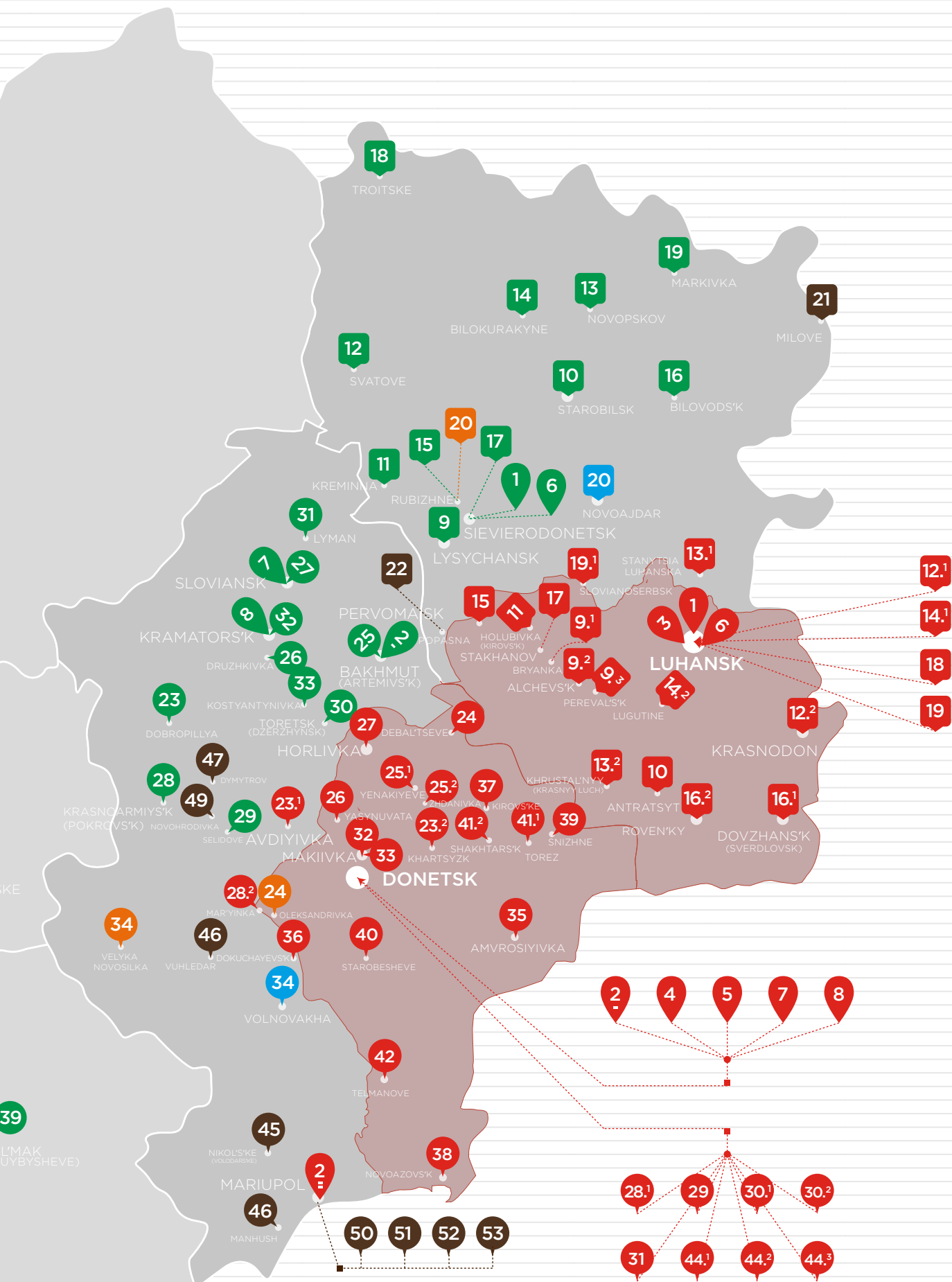
56

Location unchanged



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CHANGE OF JURISDICTION AND RELOCATION OF COURTS FROM NON-GOVERNMENT CONTROLLED AREAS

APPELLATE COURTS OF GENERAL JURISDICTION, ADMINISTRATIVE AND ECONOMIC COURTS

№	NAME OF THE COURT	WHERE AND WHEN WAS JUSTICE EXECUTED
1	Luhansk Oblast Court of Appeals	since 02.09.2014 – Kharkiv Oblast Court of Appeals since 17.02.2015 – operation resumed at the address of 93404, Luhansk Oblast, Sievierodonetsk, 16 Lenina St.
2	Donetsk Oblast Court of Appeals	2.1 Mariupol, 1a Lenina Ave. – operation never suspended 2.2 from 02.09.2014 – to 21.05.2015 (except for cases, criminal proceedings that are subject to or under consideration of Donetsk Oblast Court of Appeals stationed in Mariupol, Donetsk Oblast) – Zaporizhia Oblast Court of Appeals since 21.05.2015 – operation resumed at the address of Donetsk Oblast, Artemivsk, 10 Lenina St.
3	Luhansk Oblast Economic Court	since 02.09.2014 – Kharkiv Oblast Economic Court з 02.04.15 відновлено роботу за адресою м. Харків проспект Леніна, 5
4	Donetsk Oblast Economic Court	since 02.09.2014 – Kharkiv Economic Court of Appeals since 09.04.15 operation resumed at the address of Kharkiv, 5 Lenina Ave.
5	Donetsk Economic Court of Appeals	since 02.09.2014 – Kharkiv District Administrative Court since 27.03.2015 operation resumed at the address of 93411, Sievierodonetsk, 18 Kosmonavtov Ave.
6	Luhansk District Administrative Court	since 02.09.2014 – Kharkiv District Administrative Court since 27.03.2015 operation resumed at the address of 93411, Sievierodonetsk, 18 Kosmonavtov Ave.
7	Donetsk District Administrative Court	since 02.09.2014 – Zaporizhia District Administrative Court since 22.12.2014 operation resumed at the address of Sloviansk, 2 Dobrovolskogo St.
8	Donetsk Administrative Court of Appeals	since 02.09.2014 – Kharkiv Administrative Court of Appeals since 14.11.2014 operation resumed at the address of Kramatorsk, 15 Marata St. (building of School of Art)

LOCAL COURTS OF GENERAL JURISDICTION OF LUHANSK OBLAST

№	OPERATING COURTS	COURTS THAT CHANGED THEIR TERRITORIAL JURISDICTION
9	Lysychansk City Court of Luhansk Oblast	since 02.09.2014 – Btianskiv City Court of Luhansk Oblast, Alchevsk City Court of Luhansk Oblast since 08.12.2014 – Perevalsk District Court of Luhansk Oblast
10	Starobilsk District Court of Luhansk Oblast	since 02.09.2014 – Anratsyt City District Court of Luhansk Oblast
11	Kreminna District Court of Luhansk Oblast	since 02.09.2014 – Kirov City Court of Luhansk Oblast
12	Svativ District Court of Luhansk Oblast	since 02.09.2014 – Leninskyi District Court of Luhansk, Krasnodon City District Court of Luhansk Oblast
13	Novopokrovsk District Court of Luhansk Oblast	since 02.09.2014 – Stanychno-Luhanskyi District Court of Luhansk Oblast, Krasnolutskyi City Court of Luhansk Oblast
14	Bilokurakyne District Court of Luhansk Oblast	since 02.09.2014 – Artemivsk District Court of Luhansk, Lutugyne District Court of Luhansk Oblast
15	Rubizhne City Court of Luhansk Oblast	since 02.09.2014 – Pervomaisk City Court of Luhansk Oblast since 12.09.2014 – по 14.11.2014 Novoaidar District Court of Luhansk Oblast
16	Bilovodsk District Court of Luhansk Oblast	since 02.09.2014 – Sverdlovsk City Court of Luhansk Oblast, Rovenky City Court of Luhansk Oblast
17	Sievierodonetsk City Court of Luhansk Oblast	since 02.09.2014 – Stakhanov City Court of Luhansk Oblast
18	Troitske District Court of Luhansk Oblast	since 02.09.2014 – Zhovtneve District Court of Luhansk
19	Markiv District Court of Luhansk Oblast	since 02.09.2014 – Kamianobridskyi District Court of Luhansk since 12.09.2014 – Slovianoserbskyi District Court of Luhansk Oblast
20	Novoaidar District Court of Luhansk Oblast	since 14.11.2014 – operation resumed (from 12.09.2014 – to 14.11.2014 jurisdiction area changed for Rubizhne City Court of Luhansk Oblast)
21	Milove District Court of Luhansk Oblast	Location did not change
22	Popasna District Court of Luhansk Oblast	Location did not change

LOCAL COURTS OF GENERAL JURISDICTION OF DONETSK OBLAST

N ^o	OPERATING COURTS	COURTS THAT CHANGED THEIR TERRITORIAL JURISDICTION
23	Dobropilsk City District Court of Donetsk Oblast	since 02.09.2014 – Авдіївський City Court of Donetsk Oblast, Khartsyzk City Court of Donetsk Oblast
24	Oleksandrivsk District Court of Donetsk Oblast	from 02.09.2014 – to 14.11.2014 Debaltsevo City Court of Donetsk Oblast
25	Artemivsk City District Court of Donetsk Oblast	since 02.09.2014 – Yenakiieve City Court of Donetsk Oblast, Zhdaniv City Court of Donetsk Oblast
26	Druzhkivka City Court of Donetsk Oblast	since 02.09.2014 – Yasynuvata City District Court of Donetsk Oblast
27	Sloviansk City District Court of Donetsk Oblast	since 02.09.2014 – Kalynivka District Court of Horlivka, Mykytivka District Court of Horlivka, Tsentralno-Miskyi District Court of Horlivka
28	Krasnoarmiisk City District Court of Donetsk Oblast	since 02.09.2014 – Budionivsk District Court of Donetsk, Kirov District Court of Donetsk since 06.04.2015 – Mariinka District Court of Donetsk Oblast
29	Sediliv City Court of Donetsk Oblast	since 02.09.2014 – Voroshyliv District Court of Donetsk
30	Dzerzhynsk City Court of Donetsk Oblast	since 02.09.2014 – Leninskyi District Court of Donetsk, Proletarskyi District Court of Donetsk
31	Krasnolymanskyi City Court of Donetsk Oblast	since 02.09.2014 – Petrovskyi District Court of Donetsk
32	Kramatorsk City Court of Donetsk Oblast	since 02.09.2014 – Kirovskyi District Court of Makiivka, Sovietskyi District Court of Makiivka, Girnytskyi District Court of Makiivka
33	Kostyantynivskiy City District Court of Donetsk Oblast	since 02.09.2014 – Tsentralno-Miskyi District Court of Makiivka, Chervonogvardiyskyi District Court of Makiivka since 16.02.2015 – Debaltsevo City Court of Donetsk Oblast (from 14.11.2014 to 16.02.2015 operation of Debaltsevo City Court was resumed)
34	Volnovakha District Court of Donetsk Oblast	since 26.11.2014 – operation resumed (from 02.09.2014 to 26.11.2014 jurisdiction area changed for Velyka Novosilka District Court of Donetsk Oblast) Velyka Novosilka District Court of Donetsk Oblast (02.09.2014 – 26.11.2014)

N ^o	OPERATING COURTS	COURTS THAT CHANGED THEIR TERRITORIAL JURISDICTION
35	Orikhiv District Court of Zaporizhia Oblast	since 02.09.2014 – Amvrosiivka District Court of Donetsk Oblast
36	Pologiv District Court of Zaporizhia Oblast	since 02.09.2014 – Dokuchyevsk City Court of Donetsk Oblast
37	Chernigiv District Court of Zaporizhia Oblast	since 02.09.2014 – Kirov City Court of Donetsk Oblast
38	Pryazovsk District Court of Zaporizhia Oblast	since 02.09.2014 – Novoazovsk District Court of Donetsk Oblast
39	Kuibyshevskiy District Court of Zaporizhia Oblast	since 02.09.2014 – Snizhnyansk City Court of Donetsk Oblast
40	Tokmak District Court of Zaporizhia Oblast	since 02.09.2014 – Starobeshiv District Court of Donetsk Oblast
41	Berdiansk City District Court of Zaporizhia Oblast	since 02.09.2014 – Torez City Court of Donetsk Oblast, Shakhtarsk City District Court of Donetsk Oblast
42	Prymorsk District Court of Zaporizhia Oblast	since 02.09.2014 – Telmanivskiy District Court of Donetsk Oblast
43	Pokrovske District Court of Dnipropetrovsk Oblast	з 02.09.2014 – по 06.04.2015 Mariinka District Court of Donetsk Oblast
44	Pavlograd City District Court of Dnipropetrovsk Oblast	since 02.09.2014 – Kyivskyi District Court of Donetsk, Kalyninskyi District Court of Donetsk, Kuibyshevskiy District Court of Donetsk
45	Volodarskyi District Court of Donetsk Oblast	
46	Vugledar City Court of Donetsk Oblast	
47	Dymytrovskiy City Court of Donetsk Oblast	
48	Pershotravnevyyi District Court of Donetsk Oblast	
49	Novogrodivka City Court of Donetsk Oblast	Not relocated
50	Prymorsky District Court of Mariupol	
51	Zhovtnevyyi District Court of Mariupol	
52	Illichivsk District Court of Mariupol	
53	Ordzhonikidze District Court of Mariupol	



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Lined area for notes with horizontal dashed lines.

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