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THE SAFETY OF THE CIVIL PROCESS

The Constitution of Ukraine guarantees that the interests of a person in the legal system of our state are of primary importance, and for the state, the highest value is a person with his rights, freedoms, and legitimate interests. Thus, everyone has the right to their safety in any relevant area. The author analyzed the works of such scientists as Melnyk J.J., Dyachenko S.V., Korniychuk S.L., on tangential topics to generalize the already proposed concepts and form my own definition of “civil process safety”.

According to the modern legal encyclopedia, “safety” is “... the state of protection of the vital interests of the individual, society and the state from external and internal threats...” [5, p. 207]. Ensuring safety is regulated by the Constitution of Ukraine, laws, and legal acts, with the help of the cooperation of state bodies. J. Melnyk in his dissertation pointed out that safety threats relate directly to the protection and protection of the rights and freedoms of citizens, as well as the exercise of their powers by the state, and by bodies and officials acting on its behalf [2]. In addition, the safety of the civil process can be considered in the context of the right to a fair trial, which is disclosed in Art. 6 of the Convention. According to Chapter III of the Association Agreement between Ukraine and the EU dated June 27, 2014, the obligations of the parties in the safety sector relate to cooperation in the field of ... safety, the establishment of the supremacy of the law ... judicial cooperation in civil ... cases, ... on the principles of legal certainty and the right to a fair trial [4]. According to the concept described above, we can talk about observing the rights and interests of the participants in the civil process, which in turn will guarantee their safety.

In the theory of law, safety is associated with the legal regime of information safety. This is reflected in the non-disclosure of state secrets, attorney secrets, and a certain category of cases that are considered exclusively at a closed court session. But here we can already talk about direct danger, when the disclosure of certain information can harm reputation, life, or health, which, according to the author, is also a very important component of safety.

To ensure safety during the civil process, the conditions for this state of safety of the participants must be created through the work of law enforcement agencies, the full and effective application of regulations, and the creation of monitoring groups to prevent violations and ensure rights. Dyachenko S.V. and Korniychuk S.L. in their work noted that safety acts simultaneously as a result of protection (state of protection) and as a means of achieving the purpose (goal) of the entire judicial process [1]. That is why it is important to distinguish the means of protection of the rights and freedoms of the participants in the civil process because this is part of the definition. These may include duties entrusted to the court, in particular ensuring a fair trial process, applying the practice of the European Court, etc. Melnyk J. noted that the court, on the one hand, is obliged to contribute to the protection of rights, freedoms and interests and to influence persons who create threats or dangers [2, p. 347]. In my opinion, ensuring procedural safety should rely not only on the court but also on each participant in the process separately, as well as on law enforcement agencies. Because the civil process is multi-subject, judges also have the right to procedural safety, which can be ensured only through the observance of their duties and the complete absence of violations of the rights of other persons.

In this way, several definitions were considered, which complement each other and make up a single definition of the safety of the civil process - this is the state of protection of all participants in the civil process from violations of their rights and freedoms, including information safety, provided by legislation and civil procedural forms, thanks to the creation of appropriate conditions fair administration of justice using means of protection of civil procedural safety, full compliance with one's duties and absence of violations of the rights of other persons.

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