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# Security of the participants in the criminal process: procedural and criminological aspects

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## Abstract

This article is devoted to the study of procedural and criminological aspects of ensuring the safety of participants in criminal proceedings. The problems of legal regulation of ensuring the safety of participants in these proceedings are also considered. The legal status of the subjects of relevant decisions is analyzed and the international and Ukrainian experience in regulating these issues is studied. The methods of dialectical, formal-logical, historical, structural-functional, institutional analysis, content analysis of laws and regulations and the method of evaluation of scientific positions were used. Among the relevant results of the research, the necessity of implementing security measures for participants of criminal proceedings in the Criminal Procedure Code of Ukraine in a separate section was demonstrated. Similarly, the expediency of creating in Ukraine a specialized independent structural unit for the implementation of measures to protect persons involved in criminal proceedings is discussed. In the main conclusions the need for the introduction in Ukraine of corresponding programs for the protection of participants in criminal proceedings is argued.

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**Keywords:** criminal proceedings; opposition to the investigation; individual rights and freedoms; security of participants in criminal proceedings; security measures.

## Seguridad de los participantes en el proceso penal: aspectos procesales y criminológicos

### Resumen

Este artículo está dedicado al estudio de los aspectos procesales y criminológicos para garantizar la seguridad de los participantes en los procesos penales. También se consideran los problemas de regulación legal para garantizar la seguridad de los participantes en estos procesos. Se analiza el estado legal de los sujetos de las decisiones relevantes y se estudia la experiencia internacional y ucraniana en la regulación de estos temas. Se utilizaron los métodos de análisis dialéctico, formal-lógico, histórico, estructural-funcional, institucional, análisis de contenido de leyes y reglamentos y el método de evaluación de posiciones científicas. Entre los resultados relevantes de la investigación, se demostró la necesidad de implementar medidas de seguridad para los participantes en procesos penales en el Código de Procedimiento Penal de Ucrania en una sección separada. Del mismo modo, se discute la conveniencia de crear en Ucrania una unidad estructural independiente especializada para la implementación de medidas para proteger a las personas involucradas en procesos penales. En las principales conclusiones se argumenta la necesidad de la introducción en Ucrania de los programas correspondientes de protección de los participantes en los procesos penales.

**Palabras clave:** proceso penal; oposición a la investigación; derechos y libertades individuales; seguridad de los participantes en el proceso penal; medidas de seguridad.

### Introduction

Indispensable phenomenon of public life is crime of various characteristics - organized, corrupt, professional, economic, transnational, etc., the fight against which in modern conditions requires a fairly new approach to the means and methods of detecting and investigating criminal acts, gathering information about it, etc. (Kopetyuk, 2013). Equally important is the activity to combat the relevant criminal manifestations, because modern crime is changing, becoming multi-purpose and difficult to predict.

The Great Ukrainian Legal Encyclopedia defines crime prevention as the activity of criminal justice bodies, other authorized institutions and organizations and individual citizens to identify, stop, investigate and prosecute perpetrators of criminal offenses, as well as search, record and prevent intelligence and subversive activities of special services foreign states, organizations or individuals in order to protect and ensure the security of citizens, society and the state from unlawful encroachments. One of the spheres of public relations covered by the fight against crime is crime prevention (detection, elimination or neutralization of the causes and conditions of criminal offenses; the other is law enforcement (national security, protection of human rights and freedoms) (The Great Ukrainian Legal Encyclopedia, 2019), Both of these areas in one way or another relate to security measures, which, subject to appropriate conditions and grounds, may be applied to participants in criminal proceedings.

Some scholars (Austin) link the effectiveness of the fight against crime with the application of harsh measures to those who have committed socially dangerous acts (Austin, 1992). However, most scholars (Laitinen; Pasechnik) Support the view that the severity of criminal punishment and crime reduction rarely coincide (Laitinen, 1993; Pasechnik, 2019).

The ultimate goal of preventing crimes against participants in criminal proceedings is to identify the causes and conditions that determine these socially dangerous acts; deterring citizens from committing them in order to reduce and reduce to a minimum the totality of crimes. Therefore, speaking about improving the effectiveness of preventive activities, we should, in our opinion, pay special attention to special criminological measures, which include measures to ensure the safety of participants in criminal proceedings.

Techniques and methods of physical and psychological influence are often used against participants in criminal proceedings in order to change or deny their testimony. Such illegal actions in criminal proceedings are carried out mainly in order to prevent the establishment of the circumstances of a criminal offense. However, this is not the only goal. Post-criminal action, as practice shows, can also be carried out in order to prevent the promotion of justice, coercion of persons to stop assistance, revenge for assistance, and so on. Accordingly, the causes of encroachment are mostly the intention and even the potential ability of the person to promote justice, direct assistance. It is these factors, and not the presence of a person of a particular criminal procedural status is the cause of post-criminal influence (endowed with procedural status, a person can take a passive position).

It is indisputable that the personal security of each subject of criminal procedural relations, his relatives and friends, protection of property from unlawful encroachments are important conditions for effective solution of general problems of criminal proceedings. The importance of security

guarantees for participants in criminal proceedings is also emphasized in international legal acts. Legal norms governing such legal relations are contained, for example, in Art. 13 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention Against Torture and Other Cruel, Inhuman or Defendant, 1987) and articles 54, 57, 64, 68, 93 of the Rome Statute of the International Criminal Court (Rome Statute of The International Criminal Court, 2002).

Ensuring the state protection of participants in modern criminal justice in any country is one of the important elements of its criminal procedural policy. Security is especially needed for those who contribute to criminal justice through their participation in the proceedings: it is for this reason that they are most often subjected to illegal action by criminal elements.

In recent decades, the Institute for Ensuring Safe Conditions for Participation in Criminal Proceedings has attracted the attention of experts due to the need to establish important criminal procedural guarantees for gathering evidence and fulfilling the purpose of criminal proceedings. This complex procedure combines a number of problems, among which a special place is occupied by: a) ensuring the interests of the state in the fight against crime and b) protection from illegal influence of citizens as participants in criminal proceedings.

Security issues are confirmed by the fact that certain provisions of the Criminal procedure code of Ukraine on the application of criminal security measures are often the subject of consideration by higher courts, which do not see violations of constitutional requirements for security measures in certain criminal proceedings.

In addition to the existing legislative, procedural and criminological, which we will discuss in more detail in the article, scholars highlight the economic and organizational problems of applying security measures to participants in criminal proceedings. Organizational problems include: timeliness of security measures; insufficient awareness of law enforcement officers who decide on the application of security measures; lack of proper interaction between the initiating entities and the entities implementing the decision to take security measures; partial (incomplete) awareness of decision-making bodies on the application of security measures, on all available capabilities and resources of special units of the judicial police, etc. (Bardatska and Orleans, 2010).

Thus, in the current conditions of development of criminal procedural legal relations, the need to identify and study new legal means and ways to protect the rights and interests of the individual participants in criminal proceedings, which ensure healthy coexistence in society, is becoming increasingly important. At the same time, national and international legal systems preach the freedom of the individual and the autonomy of the will

in combination with the free development of the individual and dignity (Leal Esper, 2021).

### **1. Methodology of the study**

According to the purpose, tasks, object and subject of research, general scientific and special methods of cognition were used. The methodological basis of the scientific article is based on the methods of dialectical, formal-logical, historical, structural-functional, institutional analysis, as well as content analysis of laws and regulations and the method of evaluating scientific positions.

Using the dialectical method, the author's tasks to define the concept of «security measures» as an independent component of the national security system were solved.

The formal-logical method allowed to clarify the peculiarities of certain legal acts, identify inconsistencies in the legislation, as well as helped to draw conclusions and provide suggestions for further improvement of security mechanisms for participants in criminal proceedings on the principles of logic and problem solving. The logical-dogmatic method was used in the interpretation of certain scientific and legislative terms, provisions of legislation, the formulation of definitions of criminal procedural and criminological concepts and categories.

The structural-functional method allowed to consider measures to prevent and detect criminal offenses as a holistic system, to explore its structural elements and to determine the place in this system of measures to ensure the safety of criminal proceedings.

The method of systematic analysis and synthesis was used to compare the concepts of «crime prevention», protection of individual rights and «security measures».

The article uses the institutional method of research, which allowed to determine the role of security measures for participants in criminal proceedings in the implementation of the tasks of the criminal process. At the same time, the methodology of the actual system analysis of the object of study consisted of system, structural-functional and evolutionary methods.

The most important methodological role in the study was played by the conceptual provisions and the conceptual and categorical apparatus of the theory of criminal procedure and criminological science.

## **2. Analysis of recent research**

Analyzing the degree of scientific development of research on the security of participants in criminal proceedings, it should be emphasized that the science of criminal procedure and criminology and the cycle of other legal sciences lacks an understanding of «security of participants in criminal proceedings». Important publications on this topic have been made by such scholars as M. Pasechnik (Pasechnik, 2019), A. Orlean (Orlean, 2016), Kopetyuk (Kopetyuk, 2013), O. Podobnij, (Podobnij, 2015), Austin (Austin, 1992) and others.

Given the interests of the investigation, as well as that the Constitution of Ukraine in art. 3 proclaims the human person, his life and health, inviolability and security as the highest social value, it is necessary to ensure the safety of witnesses, victims and others within the relevant legal institution. The existing institute of security of participants in criminal proceedings in Ukraine is not effective enough, the use of foreign experience and recommendations of international organizations on this phenomenon will allow to focus on existing problems and develop ways to solve them.

We also share the view of some scholars that the tools available in Ukraine to ensure the safety of participants in criminal proceedings does not cause significant dissonance with existing European standards in this area, and the current state does not allow to argue about their harmonious compliance (Orlean, 2016). The mechanism for selecting and applying certain security measures in accordance with the standards of the witness protection program provided for in Recommendation Rec (2005) 9 of the Committee of Ministers of the Council of Europe on the protection of witnesses and persons cooperating with the judiciary requires need protection.

Therefore, there is a need to further study the world experience and develop appropriate recommendations for improving Ukrainian legislation. This determines the relevance of the chosen research topic.

The purpose of the article is to study Ukrainian and foreign legislation, developments of scientists and world best practices to ensure the security of criminal proceedings and develop recommendations, practical provisions for improving this institution in Ukraine.

Achieving this goal involves the following tasks: 1) to outline the features of the legal regulation of the procedure for ensuring the safety of participants in criminal proceedings in Ukraine; 2) determine international standards for ensuring the safety of participants in criminal proceedings; 3) to study the foreign experience of organizing the relevant institution within different legal systems; 4) to formulate proposals for the improvement of normative legal acts, which regulate the relations concerning the protection of participants in criminal proceedings.

### **3. Results and discussion**

#### **3.1. General characteristics of security measures of participants in criminal proceedings**

Nowadays, it is not uncommon for participants in criminal proceedings, in particular witnesses, victims, and sometimes suspects and accused, to refuse to disclose to authorized entities information about a criminal offense committed or being prepared, due to fears of life, health, property benefits of themselves and their relatives and friends.

Under such conditions, the application of security measures is an effective means of investigating criminal offenses and preventing unlawful influence on participants in criminal proceedings and other interested persons.

Ensuring the safety of participants in criminal proceedings since 1993 is decided on the legal basis established by the laws of Ukraine «On ensuring the safety of persons involved in criminal proceedings» and «On state protection of court and law enforcement officers» (On Ensuring The Safety Of Persons Participating In Criminal Proceedings, 1993; On State Protection Of Employees Of Courts And Law Enforcement Bodies, 1994).

Ensuring the safety of persons involved in criminal proceedings, ie in the detection, prevention, cessation or investigation of criminal offenses, as well as in the trial of criminal proceedings - is the implementation of law enforcement agencies legal, organizational, technical and other measures to protect life, housing, health and property of these persons from unlawful encroachments, in order to create the necessary conditions for the proper administration of justice (On Ensuring The Safety Of Persons Participating In Criminal Proceedings, 1993).

In the Law of Ukraine «On Ensuring the Security of Persons Participating in Criminal Proceedings», the legislator classifies the following as security measures: personal protection; protection of housing and property through equipment with fire and burglar alarms; change of apartment telephone numbers and state license plates of vehicles; issuance of special means of individual protection and danger notification; use of technical means of control and eavesdropping on telephone and other conversations; visual observation in case of danger to life and health of the persons taken under protection; visual observation in case of threat of violence or other illegal actions against persons taken under protection; replacement of documents and change of appearance; change of place of work or study; relocation to another place of residence; placement in a preschool educational institution or an institution of social protection bodies; ensuring the confidentiality of personal information; closed trial (On Ensuring The Safety Of Persons

Participating In Criminal Proceedings, 1993). In addition, in Part 2 of art. 7 of the said Law indicates the possibility of applying other security measures taking into account the nature and degree of danger to life, health, housing and property of persons taken under protection, ie the list of such means is open (Law Of Ukraine, 1993).

Some scholars identify other measures that in specific circumstances best meet the interests of security of participants in criminal proceedings: official written warning of a person who may pose a potential threat to the person under protection, criminal liability under art. 386 of the Criminal Code of Ukraine for obstructing the appearance of a witness, victim or expert in court, pre-trial investigation bodies, forcing them to refuse to testify or report, as well as to give knowingly false testimony or opinion by threatening to kill, violence, destroy property or their close relatives or the disclosure of information that discredits them, or the bribery of a witness, victim or expert for the same purpose, as well as the threat to commit such acts in retaliation for previous testimony or conclusion; declaration of a person taken under protection as dead or missing; adoption of a juvenile under protection who has lost a parent as a result of a crime; change of home and mobile phone numbers to numbers that will not be displayed in telephone directories and information about which will not be provided by operators without special permission; minimizing open contacts with police officers in the form and use of secret premises for contact with a person, etc. (Orleans, 2016).

Also, in accordance with art. 10 of the Criminal-Executive Code of Ukraine, the following security measures may be additionally applied to convicts: isolated detention; transfer to another penitentiary institution; transfer of the convict to a safe place (Criminal Enforcement Code Of Ukraine, 2003).

It should be emphasized that this list of security measures is not exhaustive and taking into account the nature and degree of danger to life, health, housing and property of persons taken under protection; other measures may be applied to them.

Based on the generalization of legislative definitions of security of persons involved in criminal proceedings, as well as scientific views on their nature, we can define security measures for participants in criminal proceedings as a set of organizational, legal, technical and other measures provided by authorized entities , and which are aimed at protecting the life, health, housing, property, honor, dignity of persons involved in criminal proceedings, their relatives and friends from unlawful encroachments in order to create appropriate conditions for the administration and administration of justice.

Scientists have repeatedly drawn attention to the lack of correctness in the list of security measures specified in the regulations. In particular, R. Tarasenko emphasizes the expediency of their classification as follows: measures aimed at ensuring the confidentiality of information about participants in criminal proceedings; measures aimed at protecting the life, health, housing and property of participants in criminal proceedings; long-term relocation measures. The researcher emphasizes that decisions on the application and practical implementation of certain security measures in criminal proceedings to varying degrees restrict the rights and legitimate interests of the accused, and therefore require a clear criminal procedure (Tarasenko, 2015).

The effectiveness of security measures is ensured under the conditions of integrated application, in particular in combination with measures to ensure the confidentiality of personal information. The responsibility for carrying out these measures in the framework of operational and investigative support of criminal proceedings rests with the employees of authorized operational units. Therefore, O. Podobnij emphasizes that the use of technical means of control, wiretapping and other conversations, visual observation in today's legal environment should be implemented through qualified covert investigative (investigative) actions under the Criminal Procedure Code of Ukraine in articles 260, 268, 269, 270. Taking these security measures in accordance with the legal procedure provided for covert investigative (investigative) actions will make it possible to immediately introduce them into the criminal proceedings as evidence of relevant criminal activity (Podobnij, 2015).

Summing up, we note that we defend the position on the feasibility of implementing security measures for participants in criminal proceedings, which are an element of investigative secrecy, to the Criminal Procedure Code of Ukraine in a separate section «Ensuring the safety of participants in criminal proceedings». Instead, the concretization of the provisions set out in the Criminal Procedure Code of Ukraine should be ensured by the Laws of Ukraine «On Ensuring the Security of Persons Participating in Criminal Proceedings», «On Investigative Activities» and «On State Protection of Court and Law Enforcement Employees» and other departmental regulations.

It should also be noted that an important guarantee of the activity of individuals in exposing corruption offenses is the institute of protection of whistleblowers introduced to implement international conventions against corruption.

Yes, in accordance with art. 33 of the United Nations Convention against Corruption, each State Party shall consider including in its domestic legal system appropriate measures to ensure the protection of all persons who, in good faith and on reasonable grounds, report to the competent authorities

any facts relating to crimes under this Convention from any unjust treatment (United Nations Convention Against Corruption, 2003).

Also, the provision on the need to protect such persons is contained in art. 22 of the Council of Europe Criminal Law Convention on Corruption, which requires each Party to take such measures as may be necessary to ensure the effective and adequate protection of persons who report corruption offenses under the Convention or otherwise cooperate with investigative and prosecuting authorities. , as well as witnesses who testify about these crimes (Criminal Convention For The Suppression Of Corruption, 1999). A similar rule is contained in Art. 9 of the Council of Europe Civil Convention against Corruption, according to which each Party provides in its domestic law for adequate protection against any unjustified sanction against workers who have sufficient grounds to suspect corruption and report their suspicions in good faith to responsible persons or competent authorities (Civil Convention Against Corruption, 1999).

In accordance with Part 2 of art. 53 of the Law of Ukraine «On Ensuring the Security of Persons Participating in Criminal Proceedings» the right to security is available only to whistleblowers who reported a criminal corruption offense and acquired procedural status of the applicant, as well as relatives of whistleblowers who reported a criminal corruption offense (Ensuring The Safety Of Persons Participating In Criminal Proceedings, 1993). Therefore, whistleblowers who report corruption, not corruption, or other violations of the law are not eligible for security.

### **3.2. International standards for ensuring the safety of participants in criminal proceedings**

The study of international standards for ensuring the safety of participants in criminal proceedings includes the analysis of interstate, intergovernmental and interdepartmental agreements, as well as legal acts of international organizations in this field.

The issue of interrogation of a witness with confidentiality of his identity largely affects the rights of the accused guaranteed by paragraph 1 and subparagraph «d» of paragraph 3 of article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms. and to demand the summoning and questioning of defense witnesses on the same terms as prosecution witnesses (Judgment of the European Court of Human Rights in the case of *Miralishvili v. Russia*; Judgment of the European Court of Human Rights in the case of *Van Mechelen and Others v. The Netherlands*; Judgment of the European Court of Human Rights in the case of *Doorson v. The Netherlands*).

This issue was thoroughly analyzed in the decision in the case of *Miralishvili v. Russia*. Following the review of the European Court of Human

Rights, it developed the following criteria for assessing the decision of the national court to conceal information about a witness from the defense: 1) whether the reasons for concealing information were appropriate and sufficient (paragraph 196); 2) whether the hidden materials had significant probative value (paragraph 199); 3) whether there were significant procedural guarantees in the decision-making procedure to restrict access to information.

In particular, it is important whether the decision to restrict access to information was made by the court and whether the court had access to non-disclosed materials, and how the court could investigate the relationship (balance) between the disclosure interests and the public interest in non-disclosure of such data (paragraph 197).

Also important is the possibility of the accused's participation in the issue of non-disclosure of data (paragraph 198) Judgment of the European Court of Human Rights in the case of *Miralishvili v. Russia*). Thus, as a result of the case, the court reprimanded the Russian national court for the fact that the decision to restrict access to materials was based solely on the type of materials and legal restrictions on their disclosure. At the same time, the said court failed to analyze the balance between the interests of the accused and the public interest in non-disclosure of such data (paragraphs 206209) (Didenko, 2022).

Therefore, the above conclusions of the European Court of Human Rights should encourage national courts to approach the issue of interrogation of a witness with confidentiality of his identity, not formally but substantively. The court, considering the relevant issue, must substantially determine the existence of reasons for concealing information about the witness. It is also necessary to assess whether such reasons are sufficient to consider that the public interest in non-disclosure outweighs the legitimate interests of the parties to the proceedings to ensure adversarial proceedings. The accused must be provided with the right to participate in deciding whether there are grounds for non-disclosure of witness data (Didenko, 2022).

According to case law, quite often the prosecution is unable to prove that a witness really needs protection. Thus, in the decision of the Volodymyr-Volyn City Court of the Volyn region of August 2, 2019, attention was focused on the lack of evidence of the exceptional circumstances justifying the prosecutor's request to interrogate the witness with security measures. It was pointed out that there is evidence that the defendants are aware of the identity of the witness at the time of the petition (Decision of the Volodymyr-Volyn City Court of the Volyn Region, 2019).

From the above it can be concluded that the defense must be active in collecting and submitting to the court appropriate and sufficient evidence for examination by the court. Such evidence must confirm both the

procedural status of the witness as a person subject to security measures in criminal proceedings and the availability of evidence of a real threat to his or her safety.

At the same time, it should be borne in mind that even if all the above requirements are met, the data obtained from the testimony of a person cannot be the only or decisive proof of a person's guilt. This is emphasized, in particular in paragraph 51 of the judgment in *Van Mechelen and Others v. The Netherlands*, the European Court of Human Rights stated: of Human Rights in the case of *Van Mechelen and Others v. The Netherlands*).

### **3.3. Foreign experience in applying security measures to participants in criminal proceedings**

In order to succeed in the process of ensuring the security of participants in criminal proceedings, it is advisable to analyze the legislation of both states that are successful in protecting witnesses and victims, and neighboring states with which Ukraine is historically connected. It should be noted that in most developed countries, various special programs have been developed to provide protection and moral and material assistance to victims, witnesses and other participants in criminal proceedings. Such programs are effectively used in the United States, Germany, France and other countries.

The scientific literature (Rivman and Ustinov) emphasized the dependence of crime prevention on a number of circumstances, such as the formal possibility of isolation of actors in the conflict situation, the availability of public authorities «forces and means to timely stop criminal events» (Rivman and Ustinov, 1998). One of the effective options may be to develop a legal basis for the police to remove (isolate) the victim and the perpetrator, control and response by the police to the further behavior of the perpetrator.

This experience of preventing secondary victimization has been implemented in a number of foreign countries. For example, in the Federal Republic of Germany, in the field of combating domestic violence, the sources of police law in various federal states provide for the possibility of applying such police measures as: removal from the apartment (house) of the person from whom the danger comes; ban on access to an apartment (house) and ban on contacting such a person (Maile, 2012).

In the Kingdom of the Netherlands, a person who has finally decided to change his or her name cannot change his or her place and date of birth, as civil and political rights, such as the right to a pension and the right to vote, depend on them. Therefore, new personal data is usually provided to those involved in the program for temporary use, which allows you to change the place and date of birth. At the end of participation in the program, these

temporary personal data also lose their validity (Recommended practices in the field of witness protection in organized crime, 2008).

The Witness and Victim Protection Program in the Slovak Republic covers persons who report important evidence to the court about the criminal activities of terrorist organizations, those who prepare or have committed a terrorist act, and the criminal activities of organized criminal groups. The program may also cover those persons who themselves took part in the commission of crimes, but refused to commit them further. But because these people are criminals, any of their information is verified. Police officers are not covered by the program. Other special social norms are provided for them (Brit, 2017).

Particular attention should be paid to the study of foreign experience in identifying entities authorized to apply security measures to participants in criminal proceedings. In particular, the question of which body decides on the application of security measures is important. In some countries, the decision to apply security measures is made by one official (Minister of Justice, Prosecutor or Chief of Police). In Germany, decisions on inclusion in or exclusion from the program are made by the security unit and the public prosecutor (Azarov, 2003). In Ukraine, such persons are, in accordance with paragraph 2 of art. 3 law, investigator, prosecutor and court, as well as the body carrying out operational and investigative activities (On Ensuring The Safety Of Persons Participating In Criminal Proceedings, 1993).

In our opinion, this list of persons, although extensive, does not indicate the possibility of an objective assessment of the threats reported by the witness or the victim. In this case, it is important that the authorized entity has a set of skills, abilities and knowledge in this area. Such knowledge is not always related to holding a position of legal orientation, here, obviously, knowledge of the psychology of human behavior in conditions of constant fear and intimidation is necessary, it will allow you to really assess the level of threat and choose a balanced decision.

The best practices of European countries include the establishment of an interagency Commission that decides on the inclusion of a witness in the protection program. For example, in Belgium and Italy it is implemented by multidisciplinary bodies: a commission consisting of the Deputy Secretary of State of the Ministry of Interior, judges, prosecutors, experts in the field of organized crime (Semkiv, 2017).

It is also important to note the different place in the system of public authorities of those structures that are designed to ensure the safety of witnesses. In the United States, the Bailiffs Service is responsible for the WITSEC program, and in the Federal Republic of Germany, it is handled by a special criminal police unit. In the United Kingdom, Austria and Slovakia, witness protection is provided by the police; in the Kingdom of

the Netherlands, the program operates within the executive and judiciary (Semkiv, 2017).

The key feature in these examples is that these bodies have operational autonomy and do not participate in the preparation of the case or the investigation, which corresponds to paragraph 28 of the Council of Europe Recommendations (2005) 9 (Recommendation № Rec (2005) 9 of the Committee of Ministers of the Council of Europe to member states on the protection of witnesses and persons cooperating with justice). According to art. 3 of the Law (On Ensuring The Safety Of Persons Participating In Criminal Proceedings, 1993).

In fact, these bodies are part of the prosecution, they are not endowed with the appropriate autonomy, and the high degree of fragmentation in the investigation indicates the lack of any specialization and properly trained staff. It should also be noted that there is a lack of coordination and quality interaction between these bodies, given that there is also no single center in the form of a coordinating body, we can talk about the low efficiency of the existing institution of security of persons involved in criminal proceedings.

In view of the above, we see the expediency of creating in Ukraine a specialized independent structural unit for the implementation of measures to protect persons involved in criminal proceedings. The main goal is to recruit qualified staff and create a single center to coordinate decisions and actions of pre-trial investigation bodies.

In general, the experience of foreign countries shows that the effective implementation of security measures leads to positive results and strengthens public confidence in justice, encourages them to testify in criminal proceedings. Thus, given the positive foreign experience in the implementation of programs to protect witnesses and other participants in criminal proceedings. We share the view of some scholars that a significant gap in domestic legislation should be the lack of witness protection programs in the practice of ensuring the safety of participants in criminal proceedings, as the presence of such programs would be an effective means of combating crime, would give law enforcement agencies ensuring the safety of persons involved in criminal proceedings (Mikhailova, 2010).

Of course, the problems studied in the scientific article are complex and concern the interests of various subjects of legal relations that arise in connection with the application of security measures against participants in criminal proceedings. The main criteria for the effectiveness of public authorities should be the legality, efficiency and effectiveness of their work. It is obvious that the rights and legitimate interests of the protected person should be a priority in the positive solution of these issues.

## Conclusions

The study of procedural and criminological aspects of ensuring the safety of participants in criminal proceedings allowed us to draw the following main conceptual conclusions:

Measures to ensure the safety of participants in criminal proceedings - a set of organizational, legal, technical and other measures provided by authorized entities, which are aimed at protecting the life, health, housing, property, honor, dignity of persons involved in criminal proceedings, their relatives and friends from unlawful encroachments in order to create appropriate conditions for the administration and administration of justice.

An important guarantee of the activity of individuals in detecting corruption offenses is the institute of protection of whistleblowers introduced to implement international conventions on combating corruption. However, whistleblowers who report corruption but other corruption or other legal requirements are not entitled to security.

The defense must be active in gathering and submitting to the court appropriate and sufficient evidence for examination by the court, which should confirm both the procedural status of the person subject to security measures in criminal proceedings and the availability of evidence of real threat to him. security. At the same time, even if all the statutory requirements are met, the data obtained from a person's testimony cannot be the only or decisive proof of a person's guilt.

The effectiveness of security measures is ensured under the conditions of integrated application, in particular in combination with measures to ensure the confidentiality of personal information.

It is expedient to implement security measures for participants in criminal proceedings in the Criminal Procedure Code of Ukraine in the form of a separate section «Ensuring the security of participants in criminal proceedings». Instead, the specification of these provisions should be ensured by the Laws of Ukraine «On Ensuring the Safety of Persons Participating in Criminal Proceedings», «On Investigative Activities» and «On State Protection of Court and Law Enforcement Officials» and other departmental regulations.

We see the expediency of establishing in Ukraine a specialized independent structural unit for the implementation of measures to protect persons involved in criminal proceedings, which will require the creation of a single center to coordinate decisions and actions of pre-trial investigation and competent personnel policy.

Given the positive foreign experience in the implementation of protection programs for witnesses and other participants in criminal proceedings,

arguments are presented for the introduction of appropriate protection programs in Ukraine, which would be an effective means of improving crime, giving law enforcement agencies greater powers to create special conditions for security.

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