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**The Supreme Court of Ukraine as a guarantor of the Rule of Law in Ukraine**

The Supreme Court of Ukraine is the highest judicial body in Ukraine, which ensures stability and unity of judicial practice in the order and manner determined by the procedural law. This is a cassation instance, in certain cases – a court of first or appellate instance. The Supreme Court of Ukraine is an independent body of judicial power. The independence of the judiciary is one of the foundations of the constitutional system of Ukraine and the rule of law.

Judges of the Supreme Court of Ukraine are independent in their activities and are bound by law. This means that they may not be influenced by other state authorities, political parties, businesses or other individuals.

The independence of the Supreme Court of Ukraine is ensured by the following guarantees:

1. **Judges of the Supreme Court of Ukraine are appointed by the President of Ukraine at the request of the High Qualification Commission of Judges of Ukraine.** This means that the President of Ukraine shall not directly appoint judges of the Supreme Court of Ukraine. According to Art. 126 of the Constitution of Ukraine, a judge holds office for an indefinite period.

**2. Judges of the Supreme Court of Ukraine may not be members of political parties, participate in political activities, engage in entrepreneurial or other paid work, except teaching, scientific or creative.** This means that they may not be associated with other state authorities or political parties.

**3. Judges of the Supreme Court of Ukraine have judicial immunity**. According to Art. 49 of the Law of Ukraine “On the Judiciary and the Status of Judges”, without the consent of the High Council of Justice, a judge may not be detained or held in custody or under arrest until the court delivers a guilty verdict, with the exception of the judge’s detention during or immediately after committing a serious or particularly serious crime.

The independence of the Supreme Court of Ukraine is an important guarantee for the protection of human rights and freedoms in Ukraine, that is the main goal of the rule of law as well. It ensures fair and impartial consideration of cases in courts.

In 1991, after the declaration of Ukraine’s independence, the Supreme Court of the USSR within the Ukrainian SSR was renamed to the Supreme Court of Ukraine. Thus, it became the highest judicial body of Ukraine and headed the entire judicial system.

In 2016, after the adoption of amendments to the Constitution of Ukraine and the new Law of Ukraine “On the Judiciary and the Status of Judges”, the new Supreme Court was established as the only court of cassation in the system of courts of general jurisdiction. The new Supreme Court of Ukraine after reformation began its activities in 2017.

For now, the **Supreme Court of Ukraine consists of:**

1) the Grand Chamber;

2) Administrative Cassation Tribunal (Judicial Chamber on Administrative Cases);

3) Commercial Cassation Tribunal (Judicial Chamber on Commercial Cases);

4) Criminal Cassation Tribunal (Judicial Chamber on Criminal Cases); and

5) Civil Cassation Tribunal (Judicial Chamber on Civil Cases).

Each cassation tribunal includes judges of the relevant specialization.

**So, why is the Supreme Court of Ukraine the guarantor of the rule of law in Ukraine?** The Supreme Court of Ukraine plays an important role in protecting the rights and freedoms of man and citizen, as well as in ensuring the rule of law in Ukraine. Its main functions are as follows:

1. **Ensuring stability and unity of judicial practice**. The Supreme Court of Ukraine considers cassation appeals against the decisions of courts of first and appellate instances. Decisions of the Supreme Court are binding on all courts of Ukraine. This ensures consistency and unity of judicial practice, and also prevents conflicting decisions by different courts.
2. **Protection of human and citizen rights and freedoms**. The Supreme Court of Ukraine examines cases related to the violation of human rights and freedoms. Decisions of the Supreme Court are of great importance for the protection of human and citizen rights and freedoms in Ukraine.

**3. Constitutional control.** The Supreme Court of Ukraine decides on the conformity of laws and other legal acts with the Constitution of Ukraine. This is an important guarantee of the rule of law, as it allows preventing the adoption and application of laws that contradict the Constitution of Ukraine.

According to the European and international standards and legal doctrine, the principle of the rule of law includes such **requirements**, as legal certainty, legality, prevention of abuse of powers, access to a fair trial, separation of powers, effective provision and protection of human rights, equality and non-discrimination before the law and court, and so on.

Of course, these requirements are quite vague and ambiguous, thus, require additional interpretation by law-enforcement authorities, first of all, by courts.

When it comes to the jurisprudence of the Supreme Court of Ukraine and its interpretation and application of the principle of the rule of law, based on conducted analysis, we could conclude that, unfortunately, this practice at the moment is not always properly justified, sometimes inconsistent and even contradictory, and not always clear from the point of view of proper argumentation for the application of specific requirements for the rule of law in a particular case. The rule of law principle is mainly applied in civil law cases. Thus, I will give several examples from the judicial practice of the Supreme Court.

**In 2021**, the Supreme Court of Ukraine in its decision in the *case No. 910/15296/19 prohibited discrimination against women in the field of work.* This decision became an important step in ensuring equal rights of women and men in Ukraine.

In particular, in this decision, the Supreme Court of Ukraine recognized that discrimination against women in the field of work is a violation of Article 24 of the Constitution of Ukraine, which guarantees equality of rights and freedoms of a person and a citizen, regardless of gender. The Court also noted that discrimination against women in the field of work is a violation of Article 14 of the European Convention on Human Rights, which Ukraine has ratified.

Therefore, this decision of the Supreme Court is important for ensuring equal rights of women and men in Ukraine. It prohibits discrimination against women in the field of work on the basis of gender, marital status, age, presence of children, *etc*. This judgment also obliges employers to ensure equal treatment of women and men in the field of work, regardless of their personal characteristics. The decision of the Supreme Court of Ukraine was positively perceived by Ukrainian society and non-governmental human rights organizations. It is an important step towards ensuring equal rights of women and men in Ukraine.

And, the second, no less important example, **in 2022**, the Supreme Court of Ukraine ruled the decision in the *case No. 9901/19/20, which prohibited the illegal detention and arrest of citizens.* This decision became an important guarantee of human rights,in particular, to the freedom and personal integrity. In this decision, the Supreme Court of Ukraine recognized that illegal detention and arrest is a violation of Article 29 of the Constitution of Ukraine, which guarantees the right to freedom and personal integrity. The Court also pointed out that an illegal detention and arrest is a violation of Article 5 of the European Convention on Human Rights.

Hence, this decision prohibits an illegal detention and arrest of citizens, regardless of the grounds. It also obliges law enforcement agencies to comply with the requirements of the law when detaining and arresting citizens.

Thus, given decisions of the Supreme Court of Ukraine are an example of how human rights and freedoms could be effectively protected in Ukraine. However, I would like to stress, that still we need the elaboration and more frequent application of the principle of the rule of law in the jurisprudence of the Supreme Court of Ukraine, since the Supreme Court deals with the generalization of court practice and establishes the so-called patterns and samples (models) of proper understanding and application of law in practice by lower courts and stipulates also the uniform interpretation and its implementation by all state authorities and public officials, that, in turn, guarantees one of the fundamental requirement of the rule of law, namely, the legal certainty.

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