
КРИМІНАЛЬНЕ ПРАВО І КРИМІНОЛОГІЯ

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**STATE POLICY IN THE FIELD OF PREVENTION
AND COUNTERACTION TO DOMESTIC VIOLENCE IN UKRAINE: CURRENT
STATE AND PROSPECTS FOR IMPROVEMENT**

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Purpose: based on the analysis of the provisions of Ukrainian legislation, to consider the directions and effectiveness of state policy in the field of prevention and counteraction to domestic violence in Ukraine.

Methods: general scientific and special legal methods of scientific knowledge are applied, in particular: system-structural method, observation method, generalization method, methods of analysis and synthesis.

Results: it is established that counteraction and prevention of domestic violence are carried out with the help of a wide range of regulatory instruments provided by the state. It is proposed that in order to create an effective system for preventing and combating domestic violence, it is necessary to ensure the coordination and interaction of a significant number of actors in the field of combating domestic violence. **Discussion:** organizational and legal principles of implementation of state policy in the field of prevention and counteraction to domestic violence and subjects of prevention and counteraction to domestic violence in Ukraine. At the present stage, there are more means and opportunities to protect citizens from domestic violence and promptly prevent new cases of its manifestation.

Key words: state policy; domestic violence; victim of violence; prevention of domestic violence; combating domestic violence.

Statement of the problem and its relevance.

The provisions of national legislation show that the state policy in the field of prevention and counteraction to domestic violence is one of the priorities of the state and legal policy of Ukraine because, taking care of the family, the nation cares about its future, so the study of this problem, taking into account all the features of today, determined the relevance of the chosen topic. Legal regulation of state policy in the field of prevention and counteraction to domestic violence is a set of legislative and other

normative legal acts that regulate the activities of authorized bodies of state power, local self-government bodies, non-governmental institutions, and organizations, as well as the public, in the field of prevention, detection, and termination of facts of violence on family and domestic grounds, bringing perpetrators to the responsibility established by law [1, p. 118].

Analysis of recent research and publications.

The theoretical and legal foundations of the study of the problem of prevention of domestic violence

are reflected in the works of O.E. Babenko, I.A. Botnarenko, A.A. Voznyuk, V.V. Golina, O.L. Danilova, O.O. Dudorov, I.S. Kletsina, I.F. Litvinova, S.Y. Lykhova, A.V. Orlov, M.I. Havroniuk, and others. Some issues of the effectiveness of state activity in the field of prevention of domestic violence in Ukraine were investigated by P.I. Bilenko, P.O. Vlasov, Yu.V. Lysiuk, A.V. Zaporozhtsev, K.O. Cherevko, Ya.I. Yurkiv, and others. However, despite a sufficient number of scientific developments devoted to the studied topics, there are a number of unresolved issues regarding state regulation of some issues of prevention and counteraction to domestic violence.

The purpose of the article is to study the current state of state policy in the field of combating domestic violence and the prospects for its improvement.

Presentation of the main material. Due to traditional ideas and customs, domestic violence for a long time remained outside the sphere of legal regulation because any interference in family relations by the state and society was considered a gross violation of the secrecy of private life. This led to a certain deformation of relations in families, their arbitrariness, and their transformation into a sphere of latent offenses, which were mostly ignored by the competent state authorities. Today, domestic violence has become a socially conscious problem in many countries around the world and in Ukraine, in particular. There is an understanding that it is not enough just to punish the perpetrators; it is also necessary to rehabilitate the victim of violence and work with the perpetrator of violence in order to avoid a recurrence of the situation in the future. Given all this, state policy to overcome such a shameful phenomenon should include a set of various general and special measures.

O.E. Babenko defined the state policy in the field of prevention of domestic violence as: 1) systematically developed and formalized, delimited by the levels and tasks of the subjects of its implementation, a set of measures aimed at increasing the level of social protection of families that primarily have children; 2) creation of optimal socio-economic conditions for the formation, development, full and self-sufficient functioning of the family, and upbringing of children; 3) formation of a culture of family relations, increasing the respon-

sibility of parents for the family and raising children; In her opinion, the state policy in this area covers measures of not only legal but also social, medical, cultural, economic, and other natures, as a result of which it provides for participation in the practical implementation of a wide range of subjects, including authorities, educational institutions, health care, and law enforcement agencies [2, p. 107].

Thus, Article 2 of the Law of Ukraine "On Prevention and Counteraction to Domestic Violence" provides that legislation on prevention and counteraction to domestic violence consists of the Constitution of Ukraine, international treaties ratified by the Verkhovna Rada of Ukraine, this Law, and other normative legal acts on prevention [3].

Thus, the main legislative document declaring the principles of legal regulation in the sphere of prevention and counteraction to domestic violence is the Constitution of Ukraine. Although the Basic Law of Ukraine does not mention the prevention and counteraction of domestic violence, it declares a large number of provisions for the implementation of which legislative acts should be directed. So, for example, according to Part 1 of Art. 28 and Part 1 of Art. According to Article 29 of the Constitution of Ukraine, no one shall be subjected to torture, cruel, inhuman, or degrading treatment or punishment. Everyone has the right to liberty and security of person [4]. But, despite the enshrined constitutional provisions, the state cannot always fully provide them, so the problem of domestic violence is not fully resolved. Among the international treaties of Ukraine that can be attributed to the sphere of prevention and counteraction of domestic violence, it is advisable to highlight the following: 1) Convention for the Suppression of Trafficking in Human Beings and the Exploitation of Prostitution by Third Parties; 2) Convention for the Protection of Human Rights and Fundamental Freedoms; 3) International Covenant on Civil and Political Rights; 4) United Nations Convention on the Elimination of All Forms of Discrimination against Women, and others.

If the victim is a child, any actions taken against him or her are based on the principles defined by the UN Convention on the Rights of the Child, the Council of Europe Convention on the Protection of

Children against Sexual Exploitation and Sexual Abuse, the European Convention on the Exercise of Children's Rights, and the legislative acts of Ukraine in the field of protection of children's rights.

An important direction for improving the effectiveness of state policy in the field of prevention and counteraction to domestic violence is the ratification of the Istanbul Convention. The document appeared in 2011, and so far it has been signed by 47 countries, of which 36 (including Ukraine) have ratified it. Ukraine signed the convention in November 2011, but the Verkhovna Rada ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence, known as the "Istanbul Convention", only on June 20, 2022. On November 1, 2022, the Istanbul Convention entered into force.

Ratification of the Istanbul Convention will encourage Ukraine to take further measures to prevent violence against women, protect victims, prosecute perpetrators, and, in general, adopt comprehensive policies to end this violation of human rights. The purpose of the document is to destroy gender stereotypes that allow violence against women. The Convention promotes and protects people's right to a life free from violence and prohibits all forms of discrimination against women.

The Convention proposes to criminalize violence against women and ensure punishment for it. Currently, Ukraine has a number of articles in the Criminal Code, but they are not as broad and detailed as in the Istanbul Convention. The document provides mechanisms for the protection of both men and women who have experienced domestic violence; its requirements for the implementation of an integrated approach to combating domestic violence are reflected in Art. 5 of the Law of Ukraine "On Prevention and Counteraction to Domestic Violence", where the state policy in the field of prevention and counteraction to domestic violence is aimed at ensuring a comprehensive integrated approach to overcoming domestic violence, providing comprehensive assistance to victims, and establishing the non-violent nature of private relations.

The main directions of implementation of state policy in the field of prevention and counteraction to domestic violence are: 1) prevention of domestic violence; 2) effective response to the facts of domestic violence through the introduction of a mechanism of interaction between entities that carry out measures in the field of prevention and counteraction to domestic violence; 3) providing assistance and protection to victims, providing compensation for damage caused by domestic violence; 4) proper investigation of domestic violence, bringing perpetrators to legal responsibility, and changing their behavior [3].

The Law of Ukraine "On Amendments to the Criminal and Criminal Procedural Codes of Ukraine in order to implement the provisions of the Council of Europe Convention on preventing and combating violence against women and domestic violence" establishes criminal liability for committing domestic violence, failure to comply with restrictive measures, failure to complete the program for offenders, as well as a new section on restrictive measures applied to perpetrators of domestic violence [5].

Other normative legal acts adopted in pursuance of the laws of Ukraine and international treaties of Ukraine should include acts of the President of Ukraine, the Cabinet of Ministers of Ukraine, ministries, etc. Among them: the Decree of the President of Ukraine "On Approval of the National Strategy in the Field of Human Rights"; Resolution of the Cabinet of Ministers of Ukraine "On approval of the Model Regulation on the mobile team of social and psychological assistance to victims of domestic violence and / or gender-based violence", "On approval of the Model Regulation on shelter for victims of domestic violence and / or gender-based violence", "On approval of the Procedure for interaction of entities implementing measures in the field of prevention and counteraction to domestic violence and violence for sign of gender"; Decree of the Cabinet of Ministers of Ukraine "On Approval of the Concept of the State Social Program for Prevention and Counteraction to Domestic and Gender-Based Violence for the Period up to 2023", etc.

Summarizing the above, we can come to the disappointing conclusion that the organizational

and legal basis for the implementation of state policy in the field of prevention and counteraction to domestic violence have an extensive structure, and there is reason to believe that they will be supplemented by new regulations. The implementation of the above directions of state policy in the field of combating and preventing domestic violence provides for the existence of a system of entities that carry out measures in the field of prevention and counteraction to domestic violence. Such subjects in accordance with Part 1 of Art. 6 of the Law of Ukraine "On Prevention and Counteraction to Domestic Violence" are: 1) specially authorized bodies in the field of prevention and counteraction to domestic violence; 2) other bodies and institutions entrusted with the functions of implementing measures in the field of prevention and counteraction to domestic violence; 3) general and specialized victim support services; 4) citizens of Ukraine, foreigners, and stateless persons who stay in Ukraine on legal grounds [3].

The Law clearly and comprehensively provides a classification of specially authorized bodies in the field of prevention and counteraction to domestic violence, which are: 1) the central executive body that ensures the formation of state policy in the field of prevention and counteraction to domestic violence; 2) the central executive body that implements the state policy in the field of prevention and counteraction to domestic violence; 3) Council of Ministers of the Autonomous Republic of Crimea, local state administrations, including their structural subdivisions, whose powers include the implementation of measures in the field of prevention and counteraction to domestic violence; 4) village, township, city, city district (in case of their creation) councils, their executive bodies, whose powers include the implementation of measures in the field of prevention and counteraction to domestic violence [3].

The list of other bodies and institutions entrusted with the functions of implementing measures in the field of prevention and counteraction to domestic violence includes: 1) children's services; 2) authorized units of the National Police of Ukraine; 3) educational management bodies, educational institutions, institutions, and organizations of the education system; 4) health authorities, health

care institutions; 5) centers for free secondary legal aid; 6) courts; 7) prosecutor's office; 8) authorized bodies on probation [3].

The criterion for classifying joint support services for victims as subjects of administrative and legal response to domestic violence is the possibility of providing assistance to victims of such violence [6]. Thus, it is defined as: 1) centers of social services for families, children, and youth; 2) shelters for children; 3) centers for social and psychological rehabilitation of children; 4) social rehabilitation centers (children's villages); 5) centers of social and psychological assistance; 6) territorial centers of social services (provision of social services); 7) other institutions and organizations that provide social services to affected persons.

Specialized support services for victims include shelters for victims, centers for medical and social rehabilitation of victims, a call center for preventing and combating domestic violence, gender-based violence, and violence against children, mobile teams of social and psychological assistance to victims on the basis of gender, as well as institutions designed exclusively for victims and victims of gender-based violence [3].

General and specialized support services for victims, within the limits of their statutory powers, accept and consider applications for assistance submitted directly by affected persons or their representatives, including social services provided by law, determine the needs of victims, provide them with full and comprehensive information on their rights and opportunities for receiving effective assistance, and, within their competence, provide them with free services, medical, social, and psychological assistance, and, if necessary, provide them with temporary shelter.

It provides for the possibility of participation in the implementation of measures in the field of prevention and counteraction to domestic violence, including the detection of facts of domestic violence, assistance and protection to victims, enterprises, institutions, and organizations regardless of ownership, public associations and foreign non-governmental organizations, individual entrepreneurs who meet the criteria for the activities of entities providing social services, as

well as individuals providing social services, including child patronage services [3].

All the above-mentioned subjects of administrative and legal response regularly report on the work done and its effectiveness, exchange information, and coordinate their activities in accordance with the requirements of the Procedure for Interaction between Entities Implementing Measures in the Field of Prevention and Counteraction to Domestic and Gender-Based Violence [7].

Thus, Ukraine has created a system of subjects of prevention and counteraction to domestic violence due to the inclusion in the legislation of a complete and comprehensive list of them.

The new legislation of Ukraine on prevention and counteraction to domestic violence defines the organizational and legal framework for preventing and combating domestic violence and the main directions of implementation of state policy in the field of prevention and counteraction to domestic violence, aimed at protecting the rights and interests of victims of domestic violence.

In Ukraine, domestic violence is not a purely family affair, as the state has introduced and operates an effective mechanism for combating and preventing domestic violence, defining a list of entities authorized to take appropriate measures. The subjects of administrative and legal responses to domestic violence are empowered state bodies, executive authorities, and local self-government bodies and their structural subdivisions, associations of citizens, enterprises, institutions, and organizations, as well as individuals-citizens of Ukraine, foreigners, and stateless persons. Therefore, it can be stated that, despite certain shortcomings, Ukraine has created a fairly broad system of providing protection and assistance to victims of domestic violence, aimed at ensuring the rights and legitimate interests of victims of such violence, providing them with effective assistance and protection, and preventing the recurrence of domestic violence in the future. In the period 2017–2022, the regulatory framework of Ukraine on the regulation of restrictive measures to prevent and punish violence has improved significantly.

To overcome the problem of domestic violence, it is necessary to introduce an effective system for

preventing this type of violence, which should be based on the following elements: 1) prevention; 2) providing protection and assistance to victims; 3) bringing offenders to justice [8, p. 13].

Conclusions. Today, Ukraine has developed and is enforcing progressive legislation on the prevention of domestic violence. The regulations adopted in this area require the authorities to rethink their role in the process of ensuring their implementation and direct management decisions to carry out high-quality and effective preventive work to prevent domestic violence among the population, including the creation of a system of accessible socio-psychological services, the mercenary effect of which will be maximum. At the same time, it was found that a number of domestic legal acts in the field of prevention and counteraction to domestic violence contain numerous shortcomings and collisions, which complicate and sometimes make it even impossible to bring to justice those guilty of violence.

The state policy in the field of prevention and counteraction to domestic violence in Ukraine is the purposeful activity of public authorities on the basis of common goals, principles, methods, and means, which provides for the development, legislative consolidation, and implementation of state target programs, solutions to prevent and combat domestic violence in Ukraine, solving existing problems in society that lead to such violence, preserving physical and mental health, and social and social moral well-being of the population by structuring various public interests, and the integrated implementation of political, organizational, economic, legal, social, scientific, and medical measures. The basic principle of combating domestic violence by the state is to bring offenders to justice, ensure justice for victims, and end lawlessness.

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ДЕРЖАВНА ПОЛІТИКА У СФЕРІ ПОПЕРЕДЖЕННЯ ТА ПРОТИДІЇ ДОМАШНЬОМУ НАСИЛЬСТВУ В УКРАЇНІ: СУЧАСНИЙ СТАН І ПЕРСПЕКТИВИ ВДОСКОНАЛЕННЯ

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Мета: на основі аналізу положень законодавства України розглянути напрями та ефективність державної політики у сфері запобігання та протидії домашньому насильству в Україні. **Методи дослідження:** у роботі застосовано загальнонаукові та спеціально-юридичні методи наукового пізнання, зокрема: системно-структурний метод, метод спостереження, метод узагальнення, методи аналізу та синтезу. **Результати:** встановлено, що протидія та запобігання домашньому насильству здійснюється за допомогою широкого кола нормативних інструментів, які забезпечує держава на сучасному етапі. Запропоновано, що для створення ефективної системи запобігання та протидії домашньому насильству необхідно забезпечити координацію та взаємодію значної кількості суб'єктів у сфері протидії домашньому насильству. **Обговорення:** домашнє насильство стало соціально усвідомленою проблемою у багатьох державах світу та в Україні, зокрема. Сформулювалося розуміння того, що недостатньо тільки карати винуватих осіб, необхідно також реабілітувати жертву насильства і працювати з особою, яка вчинила насильство, щоб уникнути повторення ситуації в майбутньому. Враховуючи все це державна політика щодо подолання такого ганебного явища повинна включати комплекс різноманітних загальних і спеціальних заходів. На сьогодні, організаційно-правові основи реалізації державної політики у сфері запобігання і протидії домашньому насильству мають розгалужену структуру і є підстави вважати, що вони доповнюватимуться новими нормативно-правовими актами. Прийняті у цій сфері нормативні акти вимагають від органів влади переосмислення своєї ролі в процесі забезпечення їх виконання та спрямування управлінських рішень на здійснення якісної і дієвої профілактичної роботи із запобігання домашньому насильству серед населення; створення системи доступних соціально-психологічних послуг, корисний ефект від надання яких буде максимальним. Водночас з'ясовано, що ряд вітчизняних правових актів у сфері попередження та протидії домашнього насильства містять численні недоліки та колізії, що ускладнює, а іноді взагалі унеможливує притягнення до відповідальності винних у насиллі осіб.

Ключові слова: державна політика; суб'єкти; домашнє насильство; особа постраждала від насильства; запобігання домашньому насильству; протидія домашньому насильству.

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