



UDC 343.2

DOI: 10.31548/law2021.03.17

Regulatory and legal support for combating and preventing domestic violence against women

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Article's History: *Abstract*

Received: 7.06.21
Revised: 25.07.21
Accepted: 17.08.21

The article analyzes the regulatory and legal support for combating and preventing domestic violence against women. It is provided statistical data that in 2020, the authorities and institutions (that are obliged to implement measures in the field of preventing and combating domestic violence) have received 211,362 appeals regarding the domestic violence; 2,756 – from children, 180,921 – from women, 27,676 – from men. It has been concluded that the ratification of the Istanbul Convention is still open, which helps all the signatory states to effectively counter a wide array of phenomena, including psychological violence, physical violence, sexual violence, forceful rape, forced marriage, forced abortion, forced sterilization, mutilation of female reproductive organs, crimes committed in the name of “honor”, persecution, sexual harassment, etc. In addition, the world community has repeatedly insisted and continues to insist on the need to ratify the Istanbul Convention, because after signing this Convention, Ukraine has committed itself to ratify it in the future. It has been established that the regulatory and legal support for combating

Suggested Citation:

Hbur, L. (2021). Regulatory and legal support for combating and preventing domestic violence against women. *Law. Human. Environment*, 12(3), 137-144.



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and preventing domestic violence against women consists of a set of international pacts, declarations and conventions, the legislative and subordinate normative-legal acts. It has been found that the number of notifications of violent acts committed against women is increasing every year, and therefore, the legislator should work towards preventing any manifestations of domestic violence by amending the legislation that regulates preventive measures

Keywords: violence, women, gender equality, the Istanbul Convention, domestic violence, combating violence, domestic abuse

Introduction

The number of women who are exposed to domestic violence is constantly growing. According to the latest official data for 2020, the authorities and institutions (that are obliged to implement measures in the field of preventing and combating domestic violence) have received 211,362 appeals regarding the domestic violence; 2,756 – from children, 180,921 – from women, 27,676 – from men. As it can be seen, it is women who are the most vulnerable category subjected to violence.

In many European countries, this problem is actively discussed and researched. Ukraine is also engaged in this process. At the beginning of the 21st century, Ukraine became one of the first countries in the Eastern Europe to recognize domestic violence as an important public problem, by depriving offenders of the opportunity to hide behind a screen of non-interference in private life. The problem of domestic violence (mainly it is the violence against children and women) has often been silenced by both the victims and the law enforcement agencies.

It should be noted that in recent years, there has been a constant need to update the current legislation, which regulates the provision of combating and preventing domestic violence against women, in particular

in terms of increasing the degrees of legal (criminal or administrative and legal) responsibility against those guilty of violent acts against women. At the same time, it is worth paying attention to the problem that legislators have not been able to solve since 2011. Namely, with regard to ratification of the Istanbul Convention, although Ukraine signed such a convention in 2011. These and other factors determine the relevance in conducting this study.

The purpose of the study is to analyze the current regulatory and legal support for combating and preventing domestic violence against women.

Analysis of recent studies and publications emphasizes the relevance of the chosen topic and indicates the need to further analyze certain aspects of domestic violence. Among the works of scientists, it should be noted the works of the following scientists: A.V. Voronova [1], I.I. Zuyeva and V.M. Prystup [2], V.V. Nesterchuk [3] and others.

Results and Discussion

Domestic violence exists in all social groups without exception, people suffer it regardless of the level of income, education and position in society, and it is both physical and

also psychological phenomenon. Even more cases remain unknown because the victims do not report them to the police.

Given the global nature of the problem of domestic violence, the United Nations has developed appropriate recommendations in the form of Model Legislation, and states should follow them when developing and adopting the own laws on solving the problem of domestic violence. In accordance with the UN recommendations, the national laws on combating domestic violence should be simultaneously focused on achieving several goals:

- protection of victims of violence;
- preventing further violence;
- punishment persons, which committed violence [4].

V.V. Prystup [2] has analyzed the UN recommendations, and he notes that they indicate the necessary conditions for achieving these goals, in particular:

- carrying out work in the country to form public opinion and raise the level of awareness of the population of country in this area;
- creation of emergency services for victims of various types of violence and their families;
- enlightenment, consultation and psychological correction for abuser, victim and other family members;
- training and consulting the judges, prosecutors, police officers and social workers on how to deal effectively with situations related to the domestic violence;
- educational awareness of victims of domestic violence, who do not even understand that such an act against them is illegal and punishable, not to mention the notifications

of the agencies of internal affairs about such cases; for the most part, this is due to the economic situation and financial situation of each individual family;

- mental characteristics and peculiarities of education of persons who commit violent acts against members of their family. Unfortunately, domestic violence includes the cases of inflicting severe bodily injuries, forceful rape and murder [2].

The concept “domestic abuse”, “domestic violence” is used in the international legal acts of a binding and recommendatory nature, existing both at the level of the UN, the Council of Europe and the European Union. Among them, it is necessary to note:

The Universal Declaration of Human Rights dated 1948 [5], which is considered the main document in the field of human rights protection. The Declaration proclaimed the principles of legal equality, as well as the prohibition of discrimination on any grounds, including the grounds of gender.

The Declaration on the Elimination of Discrimination against Women dated 1967, which was later replaced (in 1979) by the Convention of the same name. It is noted in this declaration that all appropriate measures must be taken to prepare public opinion in the direction of national aspirations to eradicate prejudices, customs and all other manifestations based on the idea of women inferiority [6].

In addition, the international legislation on combating violence against women includes: the International Covenant on Economic, Social and Cultural Rights; Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages; Maternity Protection Convention, etc.

Thus, the combating domestic violence against women is protected primarily by the norms of international law, which has an advantage over national law in the cases defined by the legislation of Ukraine. It is worth noting that the regulatory and legal support of mechanisms for combating and preventing domestic violence consists of a significant number of legal acts, including the international agreements and pacts, the legislative and subordinate normative-legal acts, etc. Before starting to analyze the regulatory and legal support, it is worth paying attention to the following moments.

The progressive development of society is due to many factors, and the realization of potential of each member, as well as the development of his spiritual and physical capabilities is one of these factors [7].

Certainly, the women are a special category of population, which is definitely vulnerable, and therefore the countering violence against women is one of the most important areas of social development. When violence is committed, the rights and freedoms of a particular person are violated, and this requires the interference from state and society. In particular, the implementation of proper legal means for solving this issue.

In the practice of international organizations, in particular UNFPA, the following concept is used: "Gender-based violence is a violence that affects men and women, but women predominantly become the victims. It arises as a consequence of unequal power relations between women and men. This is a violence that is directed against woman precisely because she is a woman, or it affects women disproportionately. It concerns

(but is not limited to) physical, sexual and psychological harm, including intimidation, suffering, coercion and/or deprivation of liberty in the family or in society in general" [8].

As for the gender-based violence, it should be noted that the Istanbul Convention (adopted on May 11, 2011 by the member states of the Council of Europe) has become the first legally binding document in Europe that applies a comprehensive approach to combating violence against women. Ukraine has signed the Istanbul Convention on November 7, 2011, but has not yet ratified it. The draft Law on ratification of the Convention was introduced to the Ukrainian Parliament in November 2016 and did not receive the required number of votes. People's deputies indefinitely postponed the adoption of the document, since a number of people's deputies saw in the ratification of the Istanbul Convention the following: the "threat to family values" and "propaganda of homosexual marriages". All this due to the presence of the concepts "gender" and "sexual orientation". The All-Ukrainian Council of Churches and Religious Organizations opposed the ratification of the convention. The Council of Churches has stated that the Istanbul Convention does not provide for the possibility of reservations regarding its individual provisions relating to the concept "gender" in its understanding of both male and female, "which carries unacceptable threats to the institution of family and spouses in Ukraine".

According to expert L. Kobelyanskaya [9], a petition to Volodymyr Zelensky calling for the ratification of the Istanbul Convention has recently gained the necessary number of votes for consideration.

Thus, it can be concluded that the issue of ratification of the Istanbul Convention should be resolved in the near future, because this hinders any further actions of the legislative and executive authorities regarding the combating and preventing domestic violence against women.

The Law of Ukraine “On Preventing and Combating Domestic Violence” [10], which is the key one in the implementation of this study, gives the following interpretation of the concept “domestic violence” – this is “deeds (actions or inactions) of physical, sexual, psychological or economic violence that are committed in the family or within the place of residence, or between relatives, or between former or current spouses, or between other persons cohabiting (cohabited) as one family, but not being (were not) in family relations or married to each other, regardless of whether the person who has committed domestic violence lives (lived) in the same place as the person who suffered, as well as threats to commit such acts.

Analyzing the legislation of Ukraine, V.V. Nesterchuk [3] defines the following signs indicating the presence of violent acts against women:

- intentionality;
- physical, sexual, psychological or economic orientation of actions that can be manifested both in a complex and separately;
- violation of constitutional human rights (“inalienable right to life”, “the right to respect for person’s dignity”, “the right to freedom and personal integrity”, the right to privacy, “the right to own, use and manage of the own property”, “the right to labor”, “each spouse has equal rights and obligations in marriage and family”, etc.);

- consequences at the level of causing moral and physical harm, harm to mental health, etc.

The following actions should be considered a positive aspect in this regard: the criminalization of domestic violence, which actually began on January 11, 2019, when the Law of Ukraine “On Amendments to the Criminal and Criminal Procedure Code of Ukraine in order to implement the provisions of the Council of Europe Convention on the Prevention of Violence against Women domestic violence and the fight against these phenomena” came into force [11]. It was this law that made changes to the Criminal Code of Ukraine, in particular, its amendments with the Article 126-1 “Domestic Violence”.

However, it is worth paying attention to the fact that there is an increase in crimes in the category of domestic violence as a result of unlawful acts of a psychological nature. This crime is very difficult to prove later. In 2019, there were 760 such cases, and in 2020 – already 1798. During 3 months of 2021, almost the same number of people suffered from the unlawful acts of sexual nature during the domestic violence, as it is during the previous three years.

O.V. Voronova [1] notes that national practice has received special measures to counter domestic violence, including measures to counter against women violence:

- urgent restraining order against the offender;
- restraining order against the offender;
- taking the offender for preventive registration;
- carrying out preventive work with him and sending the offender to passing the program for the abuser.

The measures indicated by scientists are more preventive in nature and are aimed at re-educating the subjects who commit violence against women.

However, only after a balanced and targeted policy of the state regarding the improvement or updating the legislation in the field of health care, it is possible to reduce the criminal actions of individuals to a minimum [12]. Therefore, it is necessary to apply a comprehensive approach to the regulatory and legal support for combating and preventing domestic violence against women.

Conclusions

In the process of analyzing the regulatory and legal support for combating and preventing domestic violence against women, it is worth noting the important issues that still remain open to the ratification of the Istanbul Convention, which now helps all signatory states to effectively counter a wide range of phenomena: psychological violence,

physical violence, sexual violence, forceful rape, forced marriage, forced abortion, forced sterilization, mutilation of female reproductive organs, crimes committed in the name of "honor", persecution, sexual harassment, etc. In addition, the world community has repeatedly insisted and continues to insist on ratification of the Istanbul Convention, because after signing this Convention, Ukraine has committed itself to ratify it in the future.

It has been established that the regulatory and legal support for combating and preventing domestic violence against women consists of a set of international pacts, declarations and conventions, the legislative and subordinate normative-legal acts.

It has been found that the number of reports of violent acts committed against women is increasing every year, and therefore, the legislator should work towards preventing any manifestations of domestic violence by amending the legislation that regulates the preventive measures.

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Нормативно-правове забезпечення протидії та запобігання домашньому насильству над жінками

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Анотація

У статті здійснено аналіз нормативно-правового забезпечення протидії та запобігання домашньому насильству над жінками. Наведено статистичні дані що за 2020 рік до органів та установ, на які покладаються функції із здійснення заходів у сфері запобігання та протидії домашньому насильству, надійшло 211 362 звернення щодо насильства в сім'ї, з них – 2756 від дітей, 180 921 – від жінок, 27 676 – від чоловіків. Зроблено висновок, що і досі залишається відкритим ратифікації Стамбульської конвенції, яка допомагає наразі усім державам-підписантам ефективно протистояти широкому спектру явищ, серед яких психологічне насильство, фізичне насильство, сексуальне насильство, передусім зґвалтування, примусовий шлюб, примусовий аборт, примусова стерилізація, каліцтво жіночих статевих органів, злочини в ім'я так званої «честі», переслідування, сексуальні домагання тощо. До того ж, на необхідності ратифікації Стамбульської конвенції неодноразово наполягала і продовжує наполягати світова спільнота, адже підписавши цю Конвенцію, Україна взяла на себе зобов'язання ратифікувати її в майбутньому. Визначено, що нормативно-правове забезпечення запобігання та протидії домашньому насильству проти жінок складається із сукупності міжнародних пактів, декларацій та конвенцій, нормативно-правових та підзаконних нормативно-правових актів. З'ясовано, що з кожним роком збільшується кількість повідомлень щодо вчинених насильницьких дій по відношенню до жінок у зв'язку з чим, законодавцю варто працювати у напрямку недопущення будь-яких проявів домашнього насильства шляхом внесення змін до законодавства що регулює превентивні заходи

Ключові слова: насильство, жінки, гендерна рівність, Стамбульська конвенція, домашнє насильство, протидія насильству, насильство в сім'ї, гендерна рівність
