

factors, legal context]. *Naukovyi visnyk Dnipropetrovskoho derzhavnogo universytetu vnutrishnikh sprav.* 2020. 1(104). P.102-107. [in Ukr.]

10. Pokaznyky diialnosti DMS za 9 misiatsiv 2022 roku [Indicators of activity of DMS for 9 months of 2022]. URL : https://dmsu.gov.ua/assets/files/statistic/year/2022_9.pdf. [in Ukr.].

ABSTRACT

The article analyzes the functions of the State Migration Service of Ukraine as a subject of countermeasures against the commission of administrative offenses by foreigners. It is emphasized that management functions are characterized by dualism – along with their static nature, they are characterized by dynamics, that in the process of public regulation in the field of migration, the tasks, the purpose of activity and the competence of subjects of authority in this field may transform, which will cause certain changes in the list its functions. The corresponding change in functions reflects their dynamics, i.e., a change in the direction of the subject of authority in the field of migration causes a change in the main functions of his management activity. It is emphasized that the functions of the State Migration Service of Ukraine, in particular those aimed at combating administrative offenses of foreigners in Ukraine, are in a phase of transformation, which is determined by both internal (a short period of time since the creation of the State Migration Service of Ukraine as a type of public service) and external factors (the development and renewal of the doctrine of administrative rights), including the activity of the State Migration Service as a subject of counteraction to the commission of administrative offenses by foreigners in the conditions of the introduction of the legal regime of martial law.

Keywords: *functions, State Migration Service, foreigners, administrative offenses, illegal migration, migration legislation, countermeasures.*

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CURRENT EXPERIENCE IN THE FIELD OF PROTECTION AGAINST FAMILY VIOLENCE AND PECULIARITIES OF PREVENTION

Дмитро Цуркаленко. СУЧАСНИЙ ДОСВІД У СФЕРІ ЗАПОБІГАННЯ ДОМАШНЬОМУ НАСИЛЬСТВУ ТА ОСОБЛИВОСТІ ПРОФІЛАКТИКИ. У статті шляхом аналізу наукових публікацій та чинного законодавства надано авторське визначення терміна «профілактика домашнього насильства». Це дії державних та громадських інституцій, спрямовані на недопущення вчинення домашнього насильства та на підвищення рівня обізнаності суспільства щодо форм, причин і наслідків домашнього насильства, формування нетерпимого ставлення до насильницької моделі поведінки у приватних стосунках, небайдужого ставлення до постраждалих осіб, насамперед до постраждалих дітей, викорінення дискримінаційних уявлень про соціальні ролі та обов'язки жінок і чоловіків, а також будь-яких звичаїв і традицій, що на них ґрунтуються.

Досліджено питання нормативного врегулювання профілактики домашнього насильства в Україні. Наголошено на тому, що на сьогодні законодавець ретельно прописав усі необхідні інструменти протидії домашнього насильства. При цьому на перший план виходить питання профілактичної діяльності в досліджуваній проблематиці. Розглянуто суб'єктів у сфері протидії домашньому насильству. Це уповноважені державою суб'єкти профілактики адміністративних правопорушень, які реалізують профілактичну діяльність у зазначеній сфері за допомогою таких методів, як примус, заохочення та переконання.

Наголошено на актуальності проблематики профілактики домашнього насильства. Адже маючи усі можливі інструменти щодо запобігання та протидії цьому вкрай негативному явищу, ще й досі серед населення побутує думка стосовно того, що домашнє насильство є нормою, а звертатися

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потерпілим від домашнього насильства по допомогу, як правило, соромно та ніяково.

Зроблено висновок, що наступним кроком держави у напрямку протидії та запобіганню домашньому насильству має бути створення нормативно закріпленого комплексу профілактичних заходів у зазначеній сфері, за допомогою якого, послідовно, силами державних та громадських інституцій проблема домашнього насильства в Україні стане не такою поширеною.

Ключові слова: профілактика правопорушень, домашнє насильство, профілактична діяльність, превентивна діяльність, попередження домашнього насильства.

Relevance of the study. Prevention of domestic violence is a system of measures carried out by executive authorities, local self-government bodies, enterprises, institutions, and organizations, as well as citizens of Ukraine, foreigners, and stateless persons who are in Ukraine on legal grounds and aimed at raising the level of public awareness regarding the forms, causes and consequences of domestic violence, the formation of an intolerant attitude towards a violent pattern of behavior in private relationships, a caring attitude towards the affected persons, first of all towards the affected children, the eradication of discriminatory ideas about the social roles and responsibilities of women and men, as well as any customs and traditions based on them. Combating domestic violence is a system of measures carried out by executive authorities, local self-government bodies, enterprises, institutions, and organizations, as well as citizens of Ukraine, foreigners, and stateless persons who are in Ukraine on legal grounds, and aimed at stopping domestic violence, providing assistance and protection to the victim, compensation for the damage caused to him, as well as proper investigation of cases of domestic violence, prosecution of offenders and change of their behavior [2-4].

Moreover, the state has now created all the necessary mechanisms to counter this negative phenomenon, and a comprehensive approach to the problem of countering domestic violence has been regulated at the regulatory level. Namely, in 2018, the Law of Ukraine "On the prevention and counteraction of domestic violence" came into force, which defined the organizational and legal principles of prevention and counteraction of domestic violence (2018), the main directions of implementation of state policy in the field of prevention and counteraction of domestic violence, aimed at protecting the rights and interests of the victims of such violence. In the same year, on August 22, the Cabinet of Ministers of Ukraine adopted Resolution No. 658 "On the approval of the Procedure for the interaction of entities implementing measures in the field of prevention and counteraction of domestic violence and violence based on the article" (2018). On August 1, 2018, the Ministry of Internal Affairs issued Order No. 654 "On approval of the procedure for issuing an urgent restraining order against the offender by authorized units of the National Police of Ukraine" (2018), and on March 13, 2019, Order "On approval of the Procedure for assessing the risks of domestic violence" (2019). In turn, on April 21, 2021, by order of the Cabinet of Ministers of Ukraine, a plan of urgent measures to prevent and counter domestic violence, and gender-based violence, and protect the rights of victims of such violence was approved (2021) [1-5].

We should note that separate relevance and the criminological activities of various subjects, primarily the National Police, play a role within the framework of state policy in the field of fighting crime.

The main goal of the reform of the Ministry of Internal Affairs system was declared to be the transformation of the police as a single service center for close cooperation and interaction with the population, territorial communities, and public associations based on partnership and aimed at meeting their needs. Its activities are guided by the principle of the rule of law, according to which a person, his rights and freedoms are recognized as the highest values and determine the content and direction most often turn to for help and for protection, therefore, the ability to respond correctly to the appeal of the functioning of the state. It should be noted that citizens often turn to the police directly for help and the purpose of protection, so the ability to correctly respond to appeals, skillfully and correctly communicate with various segments of the population, in particular children, avoid conflict situations, etc. are important skills of a modern police officer. Special attention is needed for families that are the least protected, depend on the welfare of one of the spouses, often cannot independently seek the necessary help, and lack the knowledge and skills to protect their rights. Also, in the conditions of the crisis, the social and economic problems of the society become more acute, which leads to an increase in cases in the field of countermeasures and prevention of domestic violence.

In today's conditions, it is possible to say that the state is doing everything possible to help those who need it and turn to the relevant authorities. However, it is advisable to pay attention to the fact that even today, usually only a small part of the victims apply for help. And

the reasons usually lie in a certain cult of silence – victims do not talk about violence due to fear of revenge from the offender and stigmatization in society. In addition, many people simply do not know what to do in cases of domestic violence, or where to go, in other words, they have a low level of awareness about possible help.

Recent publications review. We also need to note that according to O. Yumin state policy in the field of fighting crime is one of the most important areas of state activity in general. After all, it is axiomatic to say that the well-being of the population and the level of trust in state authorities depend on the level and state of crime in the state. In addition, a person, his life and health, honor and dignity, inviolability, and security are recognized as the highest social value in Ukraine. Human rights and freedoms and their guarantees determine the content and orientation of the state. The state is responsible to the people for its activities.

At the same time, despite all the steps taken by the state to overcome the problem of domestic violence, it remains widespread, and in today's realities, the issue of preventing domestic violence is gaining relevance, because it is an undeniable fact that any social problem is better and more effective to prevent than deal with its consequences. Moreover, the prevention of administrative offenses and the elimination of the causes and conditions that contribute to their commission is one of the primary tasks of any democratic state [14].

The research paper's objective. Taking into account everything stated, the purpose of the submitted article is a detailed study and definition of the concept and content of preventive activities carried out by state and public institutions in the field of combating domestic violence.

Discussion. Taking into account the logic of the scientific research, we consider it expedient to start with an analysis of the terminology, namely to determine what is meant by the term "domestic violence" and "preventive activity".

Domestic violence, on the other hand, is an act of deliberate intimidation, physical assault, beating, sexual assault, or any other inappropriate behavior by one partner toward another. Undoubtedly, the problem of domestic violence is extremely important for society and the state, primarily because the family is the foundation of society and should be under the special protection of the state. Violence and cruelty in the family not only destroy harmony and harmony in it but also act as one of the prerequisites for crime in society in general. That is why it is quite logical and quite appropriate that the lawmaker has defined in detail all the terms of this category in the law of Ukraine "On Prevention and Combating Domestic Violence" [1-5]. Thus, the term "domestic violence" is interpreted as acts (actions or inactions) of physical, sexual, psychological, and economic violence committed in the family or within the limits of the place of residence or between former or current spouses, or between other persons who jointly live (have lived) in the same family, but are not (have not been) in a family relationship or married to each other, regardless of whether the person who committed domestic violence lives (has lived) in the same place as the victim, as well as threats, to commit these acts. It distinguishes four types of domestic violence [11, 13, 14]:

1) Psychological – a home form of violence, which includes verbal insults, threats, including against third parties, humiliation, harassment, intimidation, other actions aimed at limiting the will of a person, control in the reproductive sphere, if such actions or inaction caused the victim to fear for his safety or the safety of third parties, caused emotional insecurity, inability to protect oneself or harm a person's mental health;

2) Economic – a form of domestic violence, which includes slapping, kicking, pushing, pinching, whipping, and biting, as well as illegal deprivation of liberty, beating, biting, inflicting physical injuries of varying degrees of severity, leaving in danger, not providing assistance to a person who is in a life-threatening condition, causing death, committing other crimes of a violent nature;

3) Physical – a form of domestic violence, which includes intentional deprivation of housing, food, clothing, other property, funds or documents or the ability to use them, leaving without care or concern, preventing the receipt of necessary treatment or rehabilitation services, prohibition to work, forced to work, prohibition to study and other offenses of an economic nature;

4) Sexual – a form of domestic violence, which includes any acts of a sexual nature committed against an adult without their consent or against a child regardless of their consent, or in the presence of a child, coercion into an act of a sexual nature with a third person, as well as other offenses against sexual freedom or sexual integrity of a person, including those committed in relation to a child or in his presence.

Moreover, the legislator provides a definition and term for the prevention of domestic

violence, under which he understands the system of measures carried out by executive authorities, local self-government bodies, enterprises, institutions, and organizations, as well as citizens of Ukraine, foreigners and stateless persons who are in Ukraine on legal grounds, and are aimed at increasing the level of public awareness of the forms, causes and consequences of domestic violence, the formation of an intolerant attitude towards a violent model of behavior in private relationships, an indifferent attitude towards the affected persons, first of all towards the affected children, the eradication of discriminatory ideas about social roles and obligations ties of women and men, as well as any customs and traditions based on them.

Taking into account all of the above, it is possible to conclude that the prevention of domestic violence is the actions of state and public institutions aimed at preventing the commission of domestic violence and increasing the level of public awareness of the forms, causes, and consequences of domestic violence, the formation of an intolerant attitude towards violent behavior in private relationships, caring for affected persons, first of all for affected children, eradication of discriminatory ideas about the social roles and responsibilities of women and men, as well as any customs and traditions based on them.

The method of coercion consists in applying to subjects who have committed offenses the measures of punishment, re-education, and encouragement provided by the law, aimed at not committing offenses, and eliminating the damage caused by such behavior. That is, for committing domestic violence, a person will be held administratively liable, put on the record, and may be subject to material and educational sanctions. Yes, there are special programs for offenders that can be ordered by court order.

Preventive activities in the field of combating domestic violence are carried out, so to speak, on two levels, and as a result, are general and individual.

General prevention – any measures aimed at identifying the causes and conditions that contribute to the perpetration of domestic violence in the entire territory of Ukraine or a separate region. Examples of the general prevention of domestic violence are any mass measures, actions aimed at drawing attention to the problem of domestic violence, destroying stereotypes that have formed in this area, and spreading information about all existing instruments in the state in the field of combating domestic violence, both legal and psychological.

Individual prevention is a system of special measures for specific persons who have not yet committed the crime of domestic violence but are in unfavorable conditions and under their influence may commit such actions, characterized by the formation of an intention and motive to commit domestic violence, or persons who have already committed domestic violence and may allow it to be repeated. These measures can include individual conversations with the alleged offender, the issuing of an urgent restraining order by the police, placing the offender on the record, conducting correctional programs for offenders, etc.

That is, it is possible to conclude that today the state has created all the necessary tools for prevention and countermeasures against domestic violence and normatively enshrined all necessary provisions for this. However, still most of the appeals to the police, as a rule, come from the same persons in whose families' domestic violence has been committed for many years. However, regardless of the tools offered by the state to combat this phenomenon, the victims choose to do nothing and do not seek help from anyone except the police, and only in moments of acute conflict, not wanting to bring their abuser to justice.

Conclusions. The study of the problems of domestic violence prevention is timely because despite having all possible tools to prevent and counteract this extremely negative phenomenon, there is still an opinion among the population that domestic violence is the norm, and asking for help for victims of domestic violence is usually shameful and awkwardly. In this regard, in our opinion, the next step of the state in the direction of countering and preventing domestic violence should be the creation of a normatively established set of preventive measures in the specified area. With the help of which, consistently, by the forces of state and public institutions, the problem of domestic violence in Ukraine will become less global and more widespread.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

References

1. Конституція України від 28.06.1996. URL : https://zakon.rada.gov.ua/laws/show/995_004#Text.
2. Кримінальний кодекс України від 05.04.2001. URL : <https://zakon.rada.gov.ua/laws/show/2341-14#Text>.
3. Загальна декларація прав людини від 10.12.1948. URL : https://zakon.rada.gov.ua/laws/show/995_015#Text.
4. Про запобігання та протидію домашньому насильству : Закон України від 07.12.2017. *Відомості Верховної Ради (ВВР)*. 2018. № 5. Ст.35.
5. Про затвердження плану невідкладних заходів із запобігання та протидії домашньому насильству, насильству за ознакою статі, захисту прав осіб, які постраждали від такого насильства : розпорядження Кабінету Міністрів України від 21.04.2021 № 361-р. URL : <https://zakon.rada.gov.ua/laws/show/361-2021-r#Text>.
6. Юнін О. Державна політика України у сфері запобігання домашньому насильству: сучасний стан та перспективи вдосконалення. *Науковий вісник Дніпропетровського державного університету внутрішніх справ*. 2021. 4(114). С. 15-21.
7. Про затвердження Порядку винесення уповноваженими підрозділами органів Національної поліції України термінового заборонного припису стосовно кривдника : наказ МВС України від 01.08.2018 № 654. URL : <https://zakon.rada.gov.ua/laws/show/z0965-18#Text>.
8. Конвенція про захист прав людини і основоположних свобод від 04.11.1950. URL : https://zakon.rada.gov.ua/laws/show/995_004#Text.
9. Про попередження насильства в сім'ї : Закон України від 15.11. 2001. URL : <https://zakon.rada.gov.ua/laws/card/2789-14>.
10. Конвенція Ради Європи про запобігання насильству стосовно жінок і домашньому насильству та боротьбу із цими явищами від 11.05.2011. URL : <https://ips.ligazakon.net/document/mul1251>.
11. Про затвердження Порядку взаємодії суб'єктів, що здійснюють заходи у сфері запобігання та протидії домашньому насильству і насильству за ознакою статі : постанова Кабінету Міністрів України від 22.08.2018 № 658. URL : <https://zakon.rada.gov.ua/laws/show/658-2018-p#Text>.
12. Кузнецов М. Г. Кримінологічні засади запобігання насильству в сім'ї. *Право і суспільство*. 2019. № 4. С. 297-302.
13. Богатирьов А. І. Кримінологічний погляд на проблему домашньої злочинності. *Вісник Луганського державного університету внутрішніх справ*. 2019. 3(87). С. 202-208.
14. Дмитрашук О. С. Запобігання домашньому насильству підрозділами Національної поліції України : автореф. дис. ... канд. юрид. наук : 12.00.08. Дніпроп. держ. ун-т внутр. справ. Дніпро, 2021. 20 с.

Submitted 30.11.2022

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1. Konstytutsiya Ukrayiny vid 28.06.1996 [Constitution of Ukraine of June 28, 1996]. URL : https://zakon.rada.gov.ua/laws/show/995_004#Text. [in Ukr.].
 2. Kryminal'nyy kodeks Ukrayiny vid 05.04.2001 [Criminal Code of Ukraine of 05.04.2001]. URL : <https://zakon.rada.gov.ua/laws/show/2341-14#Text>. [in Ukr.].
 3. Zahal'na deklaratsiya prav lyudyny vid 10.12.1948 [Universal Declaration of Human Rights of 10.12.1948]. URL : https://zakon.rada.gov.ua/laws/show/995_015#Text. [in Ukr.].
 4. Pro zapobihannya ta protydiy domashn'omu nasy'l'stvu [On prevention and combatting domestic violence] : Zakon Ukrayiny vid 07.12.2017. *Vidomosti Verkhovnoyi Rady (VVR)*. 2018. No. 5. Art. 35. [in Ukr.].
 5. Pro zatverdzhennya planu nevidkladnykh zakhodiv iz zapobihannya ta protydiy domashn'omu nasy'l'stvu, nasy'l'stvu za oznakoyu stati, zakhystu prav osib, yaki postrazhdaly vid takoho nasy'l'sta [On the approval of the plan of emergency measures to prevent and counter domestic violence, gender-based violence, protection of the rights of persons affected by such violence] : rozporядzhennya Kabinetu Ministriv Ukrayiny vid 21.04.2021 No. 361-r. URL : <https://zakon.rada.gov.ua/laws/show/361-2021-r#Text>. [in Ukr.].
 6. Yunin O. Derzhavna polityka Ukrayiny u sferi zapobihannya domashn'omu nasy'l'stvu: suchasnyy stan ta perspektyvy vdoskonalennya [State policy of Ukraine in the field of domestic violence prevention: current state and prospects for improvement]. *Naukovyy visnyk Dnipropetrovs'koho derzhavnogo universytetu vnurishnikh sprav*. 2021. 4(114). P. 15-21. [in Ukr.].
 7. Pro zatverdzhennya Poryadku vynesennya upovnovazhenymy pidrozdilamy orhaniv Natsional'noyi politsiyi Ukrayiny terminovoho zaboronnoho prypysu stosovno kryvdnyka [On the approval of the Procedure for issuing an urgent restraining order by authorized units of the National Police of Ukraine against the offender] : nakaz MVS Ukrayiny vid 01.08.2018 № 654. URL : <https://zakon.rada.gov.ua/laws/show/z0965-18#Text>. [in Ukr.].
 8. Konventsiya pro zakhyst prav lyudyny i osnovopolozhnykh svobod vid 04.11.1950 [Convention

on the Protection of Human Rights and Fundamental Freedoms of November 4, 1950]. URL : https://zakon.rada.gov.ua/laws/show/995_004#Text. [in Ukr.].

9. Pro poperedzhennya nasyt'stva v sim'yi [On prevention of violence in the family] : Zakon Ukrainy vid 15.11. 2001. URL : <https://zakon.rada.gov.ua/laws/card/2789-14>. [in Ukr.].

10. Konventsiya Rady Yevropy pro zapobihannya nasyt'stvu stosovno zhinok i domashn'omu nasyt'stvu ta borot'bu iz tsymy yavyshechamy vid 11.05.2011 [The Convention of the Council of Europe on the prevention of violence against women and domestic violence and the fight against these phenomena of May 11, 2011]. URL : <https://ips.ligazakon.net/document/mu11251>. [in Ukr.].

11. Pro zatverdzhennya Poryadku vzayemodiyi sub'yektiv, shcho zdiysnyuyut' zakhody u sferi zapobihannya ta protydiy domashn'omu nasyt'stvu i nasyt'stvu za oznakoyu stati [On the approval of the Procedure for the interaction of entities implementing measures in the field of prevention and counteraction of domestic violence and gender-based violence] : postanova Kabinetu Ministriv Ukrainy vid 22.08.2018 No. 658. URL : <https://zakon.rada.gov.ua/laws/show/658-2018-p#Text>. [in Ukr.].

12. Kuznetsov M. H. Kryminolohichni zasady zapobihannya nasyt'stvu v sim'yi [Criminological principles of preventing violence in the family]. Pravo i suspil'stvo. 2019. No. 4. P. 297-302. [in Ukr.].

13. Bohatyr'ov A. I. Kryminolohichnyy pohlyad na problemu domashn'oyi zlochynnosti. *Visnyk Luhans'koho derzhavnoho universytetu vnutrishnikh sprav im. E. O. Didorenka*. 2019. 3(87). P. 202-208. [in Ukr.].

14. Dmytrashchuk, O. S. Zapobihannya domashn'omu nasyt'stvu pidrozdilamy Natsional'noyi politysi Ukrainy [Prevention of domestic violence by units of the National Police of Ukraine] : avtoref. dys. ... kand. yuryd. nauk : 12.00.08. Dnipro : Dniprop. derzh. un-t vnutr. Sprav. 2021. 20 p. [in Ukr.].

ABSTRACT

The article provides an author's definition of the term "domestic violence prevention" by analyzing scientific publications and current legislation. Namely, the actions of state and public institutions aimed at preventing domestic violence and at increasing the level of public awareness of the forms, causes, and consequences of domestic violence, the formation of an intolerant attitude towards violent behavior in private relationships, an indifferent attitude towards the victims, first of all towards the victim's children, eradicating discriminatory ideas about the social roles and responsibilities of women and men, as well as any customs and traditions based on them.

In this article, the authors investigate the normative regulation of domestic violence prevention in Ukraine. Attention is drawn to the fact that today the legislator has carefully prescribed all the necessary tools for combating domestic violence in the law and by-laws. At the same time, today, according to the authors, the issue of preventive activities in the researched problems comes to the fore.

Research subjects in the field of combating domestic violence, it is emphasized that the designated state-authorized subjects of prevention of administrative offenses implement preventive activities in the specified field using such methods as coercion, encouragement, and persuasion.

It was emphasized that the issue of prevention of domestic violence is timely, because despite having all possible tools for preventing and countering this extremely negative phenomenon, there is still an opinion among the population that domestic violence is the norm, and victims of domestic violence usually seek help ashamed and embarrassed.

It was concluded that the next step of the state in the direction of combating and preventing domestic violence should be the creation of a normatively established complex of preventive measures in the specified area. With the help of which, consistently, by the forces of state and public institutions, the problem of domestic violence in Ukraine will become less global and more widespread.

Keywords: *crime prevention, domestic violence, prophylaxis, preventive activity, prevention of domestic violence.*