

Role of Ukrainian public prosecutor's offices in formation of data related to crime in the country. Problems of implementation of the Istanbul Convention in terms of tracking facts of violence against women and domestic violence.

The problem of domestic violence in Ukraine, like in every Council of Europe member state, is rather complicated.

Although our country acknowledges this problem and recognizes its importance, it still has not been studied thoroughly.

Availability of official administrative data on domestic violence is one of the key elements for its investigation.

Pursuant to provisions of the Council of Europe Convention on preventing and combating violence against women and domestic violence, public prosecutor's offices of Ukraine are taking measures to ensure the collection, generalisation and publication of information about criminal offences that belong to this category, perpetrators and victims.

As this information is generated from the general national crime database, please let me briefly describe how information about criminal offences is recorded in Ukraine.

With the entry into force of the new Criminal Procedure Code of Ukraine (since November 20, 2012), recording of data related to criminal offences and perpetrators and preparation of official reports on crime in Ukraine have become the responsibility of the **public prosecutor's offices**.

Since then, the Prosecutor General's Office of Ukraine procures the maintenance of the **Common Register of Pre-Trial Investigations** (hereinafter referred to as the "Register") by all pre-trial investigation bodies.

The Register first of all **provides an integral component of criminal process** which is legislatively combined with the commencement of pre-trial investigation. Pre-trial investigation may not be commenced prior to data entry into the information system.

The Register was established and is maintained pursuant to the Criminal Procedure Code of Ukraine and the Procedure for Maintenance of the Common Register of Pre-Trial Investigations approved by decree of the Prosecutor General of Ukraine No. 69 of August 17, 2012 with consent of the Ministry of Internal Affairs of Ukraine, Security Service of Ukraine and State Tax Office of Ukraine (hereinafter referred to as the "Procedure") **with the purpose of prompt registration of criminal offences** (proceedings) and **designation of investigators and public prosecutors** to provide procedural administration in the proceedings.

Information about the **results of criminal proceedings, perpetrators** who committed criminal offences and **victims** is also entered into the Register.

The Register displays the **principal procedural actions** and stores **electronic copies** of documents from the commencement of the criminal proceeding to its referral to court.

To the extent defined in the Procedure and with due regard to jurisdiction of criminal proceedings, **access** to records contained in the Register is available to all pre-trial investigation bodies: internal affairs bodies, security bodies and the body exercising control over compliance with tax legislation.

The procedure for regulation of granting access to the information system by employees of the recently established National Anti-Corruption Bureau is under consideration.

The Register is the common **inter-agency** crime database **for all pre-trial investigation bodies**.

Due to **technical features of the Register**, public prosecutor's offices and pre-trial investigation bodies can maintain **automated communication** as soon as the criminal offence is registered, which contributes to proper **procedural administration** at all stages of the pre-trial investigation

The Common Register of Pre-Trial Investigations **integrates** records between information systems of internal affairs bodies and court bodies.

These issues are regulated by joint decree of the Prosecutor General of Ukraine and Minister of Internal Affairs of Ukraine No. 115/1046 of November 17, 2012, and by joint decree of the Prosecutor General of Ukraine and Head of the State Court Administration of Ukraine No. 82/108 of August 14, 2014.

Due to this system feature, the **array of data** maintained by the Ministry of Internal Affairs of Ukraine for **special tracking purposes** is filled with information about the persons to whom a notice of suspicion was served and regarding whom the pre-trial investigation was completed, and with information about the **results of the trial**, including electronic copies of court judgments that became effective.

The **analytical component** of the Register demonstrates its functionality, because it enables every record-keeping entity to generate a **daily summary** of committed criminal offences, make up **analytical compilations** and various **information and reference materials** within the scope of access defined by the Procedure.

This function also ensures **automated generation of reports** on crime status and operation of pre-trial investigation bodies.

The Common Register of Pre-Trial Investigations is a new and unique web-oriented database designed in line with **modern global** and national standards and featuring a comprehensive system of technical information **protection** that ensures secure access to the CRPTI round-the-clock.

The analytical function of the information system provides a possibility to generate operative data about criminal offences related to domestic violence.

Laws of Ukraine currently do not envisage a separate *corpus delicti* for a crime related to domestic violence. These actions are qualified under articles of the Criminal Code of Ukraine, in particular, Article 115 (intentional murder), 121 (intentional grave bodily injury), 122 (intentional bodily injury of medium gravity), 125 (intentional minor bodily injury), 126 (assault and battery), 129 (death threat).

In view of the importance of domestic violence prevention and with regard to the qualification procedure for such offences that is in place in the country, the Common Register of Pre-Trial Investigations has **separate fields that can be used to get information about crimes related to domestic violence, perpetrators and victims of domestic violence.**

Specifically, cards “Perpetrator” and “Offence” in the “**Motive of Offence**” field reflect, along with other reasons (lucrative offence, hooliganism, national or religious intolerance, corruption), indication **that the crime is related to domestic violence.**

Furthermore, the “Offence” card provides specific information about the **types of violence** (physical, sexual, psychological or economic) and **relations between the offender and the victim** (parents, children, guardians, adoptive parents, custodians, other persons inclined to committing domestic violence).

In this electronic card data about **victims of domestic violence** can be disaggregated on the “Victims” tab.

These records are entered by registrars (investigators of pre-trial investigation bodies and public prosecutors) when information about the criminal offence is entered into the information system.

Completion of these fields is optional, however, and therefore the completeness and objectivity of such records depend on the registrar's good faith.

Provisions of the existing national laws that govern legal aspects of domestic violence, specifically, the Criminal Code of Ukraine, Family Code of Ukraine and Law of Ukraine on Prevention of Domestic Violence, apply to completion of these records.

In particular, the Law of Ukraine on Prevention of Domestic Violence defines that **domestic violence** means any intentional actions of physical, sexual, psychological or economic nature committed by one family member against other family member, if these actions violate the constitutional rights and freedoms of such family member as a human and a citizen and cause moral damage, physical damage or damage to psychical health.

The Family Code of Ukraine and this Law define **family members** as persons who reside together, share household tasks and have mutual rights and duties, i.e. are married; reside in one family but are not married; their children; persons under guardianship or custodianship; direct or indirect relatives residing together.

Victim of domestic violence is a family member who suffered from physical, sexual, psychological or economic violence committed by other family member.

Combining functional features of the Common Register of Pre-Trial Investigations with the records mentioned above helps select information about the offences related to domestic violence, perpetrators and victims as soon as the crime is registered in the system and until the court judgment in the criminal proceeding becomes effective.

Therefore, the request generator can be used to get the following data:

- time and date when the criminal offence was reported;
- family name, given name and patronymic of the victim (applicant);
- time and date when the crime was committed;
- place where the crime was committed (region, city (town, village), public place);
- story (brief description of the scene, circumstances and consequences of the crime);
- type of violence (physical, sexual, psychological or economic);
- relations between the offender and the victim (parents, children, guardians, adoptive parents, custodians, other persons inclined to committing domestic violence);
- tools and means used to commit the criminal offence (bodily injury, humiliation, suffocation, gunshot wound);
- results of the pre-trial investigation;
- information about entry into force of the court judgment in the proceeding;
- information about the persons conducting pre-trial investigation in the proceeding and public prosecutors providing procedural administration in it.

The system also offers an option to filter specific data about the perpetrators who committed a criminal offence or are suspected of it (recorded upon service of the notice of suspicion to the person). In particular:

- family name, given name and patronymic of the perpetrator;
- registration number of taxpayer's card;
- perpetrator's date and place of birth and registered address
- country of citizenship and grounds for stay in the country (refugee, illegal migrant, person without citizenship);
- date of commencement of pre-trial investigation regarding the person;
- measures taken during the criminal proceeding, including preventive measures;
- date of execution and service of the notice of suspicion;

- qualification of the crime;
- age;
- education;
- occupation and job;
- motives of the crime;
- condition at the time of the crime (alcohol, drug, toxic or psychotropic intoxication; alcoholic or drug addict);
- prior criminal record;
- whether the person is registered in operations or special register or in a drug abuse clinic or psychoneurological treatment facility;
- result of the pre-trial investigation regarding the person;
- information about entry into force of the court judgment in the proceeding.

The system can also be used to generate data on victims who suffered from the offence, specifically:

- number of victims, including the victims who died;
- country of citizenship and grounds for stay in the country;
- occupation and job; disability;
- age.

A part of this information is generalised in the administrative report titled “Common Report on Criminal Offences” based on Form No. 1 which is automatically generated on monthly basis from data entered by users to the Common Register of Pre-Trial Investigations.

In particular, the report contains the number of registered **crimes** related to domestic violence, investigation **results** and number of **victims**, including women and children.

It is necessary to note, however, that official statistics reflects the situation **as of the time of investigation completion.**

If the victim withdraws the charges (in criminal proceeding in form of private accusation), information stays in the system and will be available for review from the time of commencement of the pre-trial investigation.

Information in the Common Register of Pre-Trial Investigations that is used to generate reports is based on the data entered by employees of public prosecutor’s offices and investigative units in process of crime registration and investigation.

In connection with this certain mistakes might occur sometimes during the information display in the system due to "human factor".

The system of additional control over correctness of the entered data has been introduced with the purpose of improving the reliability of the data.

With this purpose the public prosecutors authorised to control and supervise the registration discipline systematically check the completeness, correctness and timeliness of data entry to the Register, including prior to entry of results of pre-trial investigation to the Register.

Moreover, dedicated divisions of public prosecutor's offices are responsible for control over compliance with the registration discipline by public prosecutor's offices and law enforcement bodies that constantly monitor the information system data, carry out scheduled and thematic audits with the use of materials of criminal proceedings.

To ensure the **public access** to this information, pursuant to the Law of Ukraine on Access to Public Information this report is sent to the State Statistics Office of Ukraine **on monthly basis** (within five days upon signing by the head of the institution) and **is published on websites** of the Prosecutor General and region-level public prosecutor's offices.

Therefore, the registration procedure existing in Ukraine enables to track information about the criminal offences related to domestic violence from the time of registration of the offence complaint and until the entry into force of the court judgment on the perpetrator.

Features of data integration between the Register and information databases of the internal affairs facilities and courts contribute to efficient update of information about bringing persons to criminal liability in these proceedings and criminal record.

However, Ukraine is currently facing the same problem as many European countries, as the available information about crime does not provide complete data about victims and relations between the perpetrator and the victim.

In view of this the Prosecutor General's Office of Ukraine has initiated amendments to the Procedure for Maintenance of the Common Register of Pre-Trial Investigations in order to supplement electronic cards with information about the offender and the victim (husband, wife, intimate partner, former husband or wife, former partner, relative).

Furthermore, it is planned to improve the process of collection of information about victims, specifically in terms of personal data entry.