

**JURFEM SHADOW REPORT
for GREVIO on the implementation of the Council of Europe Convention on
Preventing and Combating Violence Against Women and
Domestic Violence by Ukraine 2023**

About Ukrainian Women Lawyers Association "JurFem". This Alternative Report has been drafted by the Ukrainian Women Lawyers Association "JurFem" (hereinafter JurFem) in accordance with Rule 35 (Part 1) of the GREVIO Rules of Procedure. JurFem is one of the first women lawyers associations in Ukraine, which has been acting in the field of creating a gender-sensitive legal community and implementing gender-sensitive and victim-oriented approaches in the functioning of the justice system since 2017.

JurFem works towards advocacy and educating experts, in particular from among the legal community, as well as providing legal services to survivors of sexual violence and gender discrimination.

The organisation comprises the Analytical Center JurFem, Centre "*JurFem: Education*", the "*JurFem: Support*" legal support line, and the communication department.

The Analytical Center focuses on researching the adherence to principles of gender equality and non-discrimination on the basis of sex in the activities of public authorities, as well as the development of legislative initiatives and cooperation with representatives of authorities to improve legislative regulation in the field of gender equality and non-discrimination.

The "JurFem: Education" Centre holds webinars, lectures, courses and training sessions on awareness-raising in the field of gender equality, assistance to survivors of sexual violence, including conflict-related sexual violence, both for human rights defenders and public authorities, including prosecutors, law enforcement officers, judges and lawyers, as well as local governments. The Centre has set up and maintains an educational platform where one may watch video courses and find webinar recordings, view the JurFem library and download manuals, posters, etc.

Since the outbreak of the full-scale war, JurFem has been actively working to ensure access to justice for survivors of sexual violence, including conflict-related sexual violence. For these purposes, there is "*JurFem: Support*."

About the Alternative Report. On 7 November 2011, Ukraine signed the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (hereinafter referred to as the Istanbul Convention).

Ukraine adopted several regulatory acts that laid the ground for the gender equality policy, in particular, combating violence against women and domestic violence. For instance, the first important step was the adoption of the Law of Ukraine "On Ensuring Equal Rights and Opportunities for Women and Men" back in 2005 and the Law of Ukraine "On the Principles of Prevention and Counteracting Discrimination in Ukraine" in 2012. Importantly,

in March 2017, the Government adopted a resolution on the inclusion of gender policy issues in the mandate of the Deputy Prime Minister for European and Euro-Atlantic Integration of Ukraine. Moreover, in June 2017, the regulation on the Government Commissioner for Gender Equality Policy was approved by the resolution of the Cabinet of Ministers of Ukraine.

On 6 December 2017, the criminal legislation was reformed considerably to implement the Istanbul Convention. Thus, for the first time, a mandatory feature of committing sexual crimes – the absence of “voluntary consent” – was introduced into the national legislation. The adoption of the Law of Ukraine “On Preventing and Combating Domestic Violence” on 7 December 2017 was also crucial.

The above-mentioned legislation laid the foundation for the implementation of the majority of the Istanbul Convention provisions and determined the main legislative and social progress in terms of further implementation of the international instrument.

On 20 June 2023, Ukraine ratified the Istanbul Convention with reservations.

From that time on, Ukraine is obliged to assess the national legislation’s compliance with the Istanbul Convention. The assessment procedure results in a Report prepared by the state following the GREVIO’s sending of its questionnaire. According to Rule 35 (Part 1) of the GREVIO Rules of Procedure, non-governmental organisations subject to the provisions of the Istanbul Convention may prepare an alternative report.

Given the JurFem mission and tasks, it was decided to prepare this Alternative Report.

The aim of the Report is to propose recommendations for improving the current legislative, judicial and administrative mechanisms to protect the survivors of gender-based violence in Ukraine.

Methodology. The Report was prepared based on the analysis of national legislation and open-source information (public information media, reports of international organisations and analytical centres) regarding the problems related to the implementation of the Istanbul Convention. The data of the state authorities of Ukraine and responses to JurFem’s requests to state authorities, in particular, to the Ministry of Culture and Information Policy of Ukraine, the Ministry of Internal Affairs, the Ministry of Social Policy, the National Police of Ukraine, the General Staff of Ukraine, the Ministry of Defence, the Ministry of Education, the Ministry of Health, the National Social Service, the Training Centre for Prosecutors, the Prosecutor General’s Office of Ukraine, the National School of Judges, and the State Migration Service served as the grounds for the legal analysis and provision of conclusions and recommendations.

When determining whether certain offences were equally committed against men, women and children and whether national legislation creates conditions for the protection of survivors of gender-based violence, taking into account its impact on men, women, and children, the gender and legal analysis was applied.

Report-based recommendations. Following this Alternative Report, several recommendations for the legislative, judicial and executive branches of power were devised.

Recommendations for the legislative branch:

- Provide a legislative mechanism for state compensation to the survivors of domestic and sexual violence, as well as other gender-based violence.

- Introduce changes to Art. 3 of the Law of Ukraine “On Court Fee” in terms of exemption from court fees for filing a claim for compensation for pecuniary and non-pecuniary damage caused by a domestic violence-related criminal offence, as well as a criminal offence against sexual freedom and sexual integrity.
- Introduce changes to Art. 5 of the Law of Ukraine “On Court Fee” in terms of exemption from court fees during case consideration in all court instances:
 - for plaintiffs — in cases on compensation for non-pecuniary and pecuniary damage caused by injury or other damage to health, as well as the death of an individual;
 - for plaintiffs — in cases on compensation for non-pecuniary and pecuniary damage caused due to a criminal offence;
 - for plaintiffs — in cases on compensation for non-pecuniary and pecuniary damage caused by offences related to domestic violence and criminal offences against sexual freedom and integrity.
 - for claimants — in cases under claims for establishment of legally significant facts submitted in connection with martial law or a state of emergency, armed aggression, armed conflict, temporary occupation of the territory of Ukraine, natural or man-made emergencies, as well as in cases under claims for violation of title to movable and/or immovable property;
 - for plaintiffs — in cases under claims against the aggressor state Russian Federation or servicemen of the armed forces of the aggressor state Russian Federation for compensation for property and/or non-pecuniary damage caused in connection with martial law or a state of emergency, armed aggression, armed conflict, temporary occupation of the territory of Ukraine, which led to forced displacement from the temporarily occupied territories of Ukraine, death, injury, captivity, illegal deprivation of liberty or abduction, rape, sexual exploitation, forced pregnancy, forced sterilisation, or any other forms of conflict-related sexual violence, causing moderate or serious bodily injury, violation of the title to movable and/or immovable property.
- Cancel the court fee for filing a claim for annulment of marriage.
- Improve the definition of “sexual harassment” in Article 1 of the Law of Ukraine “On Ensuring Equal Rights and Opportunities for Women and Men”.
- Stipulate in the Law of Ukraine “On Free Legal Aid” the provision of survivors of sexual violence with the right to free secondary legal aid and improve the mechanisms for obtaining such aid.
- Introduce changes to the migration legislation of Ukraine regarding the recognition of gender-based violence as a form of persecution within the meaning of Article 1A(2) of the 1951 Convention Relating to the Status of Refugees and as a form of grievous harm, which is the basis for additional (subsidiary) protection.

In the field of administrative legislation:

- Introduce administrative liability of officials in case of non-reporting of domestic violence against a child (Article 173-5 of the Code of Ukraine on Administrative Offences).
- Adopt legislative changes, which will enable police officers to consider administrative offence cases related to non-reporting of their place of temporary stay by a person subject to an emergency barring order issued by the authorised units of the National Police of Ukraine, according to which they must leave the place of common residence

(stay) with the victim (part two of Article 173-2 of the Code of Ukraine on Administrative Offences).

- Increase the term for consideration of cases under Article 173-2 of the Code of Ukraine on Administrative Offences and establish it in accordance with part one of Article 277 of the Code of Ukraine on Administrative Offences (an administrative offence case is considered within fifteen days upon the date of receipt of the protocol and other case files by the body (official) authorised to consider the case on the administrative offence), which will contribute to ensuring proper proceedings and the inevitability of bringing perpetrators to justice.
- Improve the legislative mechanism for responding to cases of domestic and gender-based violence against Ukrainian citizens abroad.
- Provide responsibility for sexual harassment.

In the field of criminal legislation:

- Define in the criminal legislation such concept as the “systematic nature” of acts provided for in Article 126¹ of the Criminal Code of Ukraine.
- Define the concept of “criminal offences related to domestic violence” in the criminal legislation, which would cover criminal offences provided for in Articles 121, 122, 125, as well as other offences provided for in the Criminal Code of Ukraine, in the case of their commitment in a family or at the place of residence, or against relatives, or against a former or current spouse, or against another person who resides (has resided) with the perpetrator as one family, but is not (was not) in a family relationship or married to them, as well as a criminal offence provided for in Article 126 of the Criminal Code of Ukraine.
- Define in the criminal legislation the corpus delicti related to the non-reporting of domestic violence against a child, i.e. separate it into a new independent provision.
- Introduce amendments to the Criminal Code of Ukraine, recognizing stalking as a criminal offence.
- Introduce changes to Article 154 of the Criminal Code of Ukraine in terms of the person’s liability for coercion to sexual intercourse not only “with a third person”.
- Provide criminal liability for sexual cyber-violence.
- Introduce changes to Article 91-1 of the Criminal Code of Ukraine in terms of extending the provision to all persons who have committed criminal offences related to domestic violence, as well as against a person’s sexual freedom and sexual integrity.
- Determine the obligation to refer persons who have committed criminal offences related to domestic violence and against the sexual freedom and integrity of the person to undergo a programme for perpetrators or a probation programme.
- Introduce amendments to Article 49 of the Criminal Code of Ukraine, namely to determine that, in the event of a criminal offence provided for in Articles 152-156-1, 301-1-303 of the Criminal Code of Ukraine, the calculation of terms will start from the day when the prosecutor/investigator began the pre-trial investigation in the case of direct identification of the signs of criminal offence or in case of an application (notification) about a criminal offence.

In the field of criminal procedure legislation:

- Minimize the number of victims' interrogations provided for in the Criminal Procedure Code of Ukraine (not only during martial law, as provided for in Article 615 of the Criminal Procedure Code of Ukraine).¹
- Introduce amendments to Article 477 of the Criminal Procedure Code of Ukraine in terms of the removal of crimes provided for in Article 126-1 (domestic violence), Article 151-2 (forced marriage), Article 152 (part 1) (rape without aggravating circumstances), Article 153 (part 1) (sexual violence), Article 154 (compulsion to sexual intercourse), Article 161 (part 1) (violation of citizens' equality based on their race, ethnicity or religion without aggravating circumstances) from the list of proceedings, for which private criminal proceedings can be carried out.
- Append Article 477 of the Criminal Procedure Code of Ukraine with a part stating that private criminal proceedings shall not be carried out in criminal offences provided for in Articles 121, 122, and 125, as well as other offences stipulated in the Criminal Code of Ukraine, in the case of their commission in a family or at the place of residence, or against relatives, or against a former or current spouse, or against another person who resides (has resided) with the perpetrator as one family, but is not (was not) in a family relationship or married to him, as well as a criminal offence provided for in Article 126 of the Criminal Code of Ukraine.
- Introduce amendments to Article 469 (part 1) of the Criminal Procedure Code of Ukraine determining that a conciliation agreement in criminal proceedings in criminal offences related to domestic violence, criminal offences against sexual freedom and integrity can be concluded only at the initiative of the victim, their representative or an attorney. Conciliation agreements in criminal proceedings in criminal offences related to domestic violence are not allowed.
- Expand a list of case categories where a conciliation agreement can be concluded only at the initiative of the victim, their representative or an attorney to include criminal offences against the sexual freedom and integrity of a person (in compliance with Article 469 (part 3) of the Criminal Procedure Code of Ukraine); criminal offences stipulated in Article 134 (part 2) of the Criminal Code of Ukraine (hereinafter referred to as the CC Ukraine), i.e. coercion to an abortion, Article 134 (part 4) of the CC of Ukraine, i.e. coercion to sterilization, Article 134 (part 5) of the CC of Ukraine, i.e. forced sterilisation if it caused serious consequences, and Article 151-2 (forced marriage) of the Criminal Code of Ukraine.
- Introduce amendments to the Criminal Procedure Code of Ukraine regarding the procedure for minors to acquire the status of a victim, in particular, under Article 55 (part 2) of the Criminal Procedure Code of Ukraine in terms of obtaining the status of a victim of domestic violence by a child who is a witness of domestic violence without a corresponding application from the parents.
- Introduce amendments to Article 55 (part 2) of the Criminal Procedure Code of Ukraine for the benefit of the victim of a criminal offence related to domestic violence, as well as criminal offences against sexual freedom and integrity, in addition to the duties provided for in part five of this Article, the court may apply one or more of the following restrictive measures to a person suspected of the commission of such a criminal offence:

1) prohibition to stay at a place of common residence with a person who suffered from a criminal offence related to domestic violence;

¹ URL: <https://jurfem.com.ua/ratyfikatsiya-stambulskoi-konventsii-ta-dokazuvannya-sexualnoho-nasylnstva/>

2) restriction of communication with the child in the event that a criminal offence related to domestic violence, a criminal offence against sexual freedom and integrity has been committed in respect of a child or in his/her presence;

3) prohibition to approach at a specified distance a place where a person who suffered from a criminal offence related to domestic violence may permanently or temporarily reside, temporarily or systematically stay in connection with work, study, treatment or for other reasons;

4) prohibition of correspondence, telephone conversations with a person who suffered from a criminal offence related to domestic violence, other contacts through means of communication or electronic communications, personally or through third parties;

5) referral for alcohol, drug or other addiction treatment, treatment from diseases that pose a danger to others; referral for a programme for perpetrators.

Recommendations for the judiciary:

- Make a decision on issuing a restraining order regardless of whether there is evidence of bringing a person to administrative liability; make a decision on issuing a restraining order within 72 hours; ensure timely receipt of the court decision by the plaintiff; ensure that a restraining order is issued not only in respect of a woman (wife) but also in respect of a child.
- When considering administrative offence cases provided for in Article 173-2 of the Code of Ukraine on Administrative Offences, pay more attention to the identification of children who suffered from domestic violence and take measures to protect their rights.
- Take into account cases of conflict regarding children as domestic violence when considering cases.
- Take into account such an aggravating circumstance as the commission of a crime applying martial law conditions when imposing a punishment for domestic violence, sexual and gender-based violence.
- Use risk assessment in practice when issuing a restraining order.
- For the National School of Judges of Ukraine — to implement training programmes on the consideration of cases related to domestic and sexual violence, in particular, taking into account the victim-oriented approach when considering cases.

Recommendations for the executive branch:

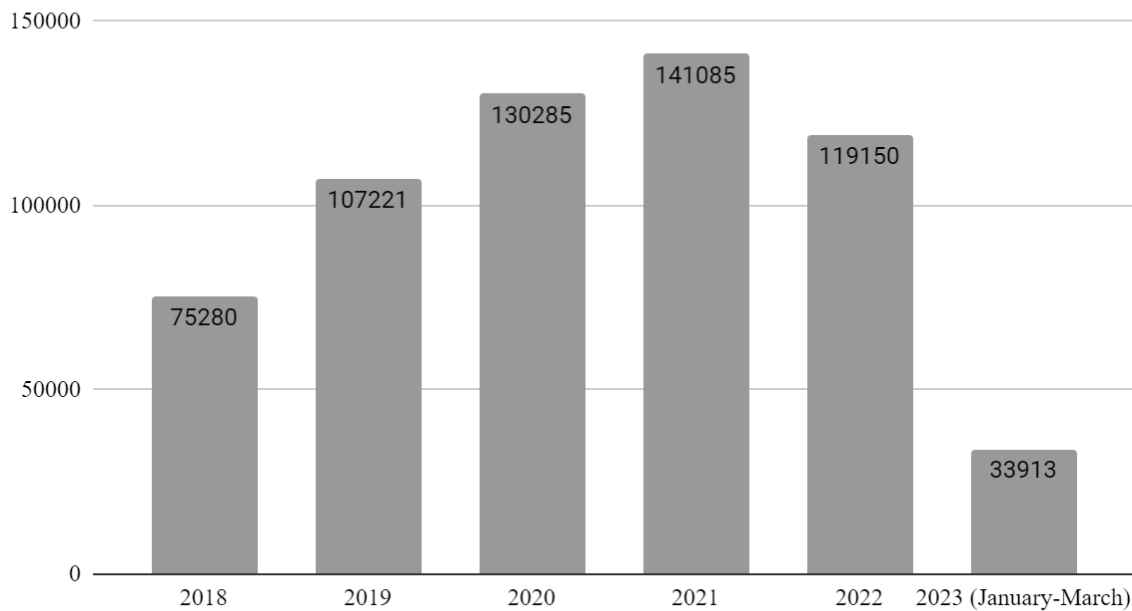
- Provide a systematic and unified collection of data regarding the number of cases of violent crimes and crimes against sexual freedom and integrity, broken down by gender, age, type of family relationship between the victim and the perpetrator, as well as the area of the crime commission.
- Encourage the business sector and state/non-state institutions and organisations to adopt appropriate gender policies to combat violent crimes and crimes against sexual freedom and integrity.
- Systematically conduct information campaigns on counteracting and protecting against all forms of violence against women, men and children at the national and regional levels.
- Include in the school curriculum a subject on counteracting and protecting against domestic, sexual and gender-based violence, as well as introduce sex education.
- Systematically provide training for civil servants and employees of local governments on counteracting and protecting against domestic, sexual and gender-based violence.

- Train specialists based on uniform programs on counteracting and protecting against sexual and domestic violence and identify people/entities responsible for such training and courses.
- Train specialists/experts in gender equality policy at higher education institutions.
- Increase the number of designated support services for persons who suffered from domestic violence and/or gender-based violence, in particular, shelters.
- Provide professional psychological and medical assistance for servicemen returning home from the war to prevent cases of domestic violence in veterans' families.
- Ensure the participation of a legal representative and defender of a minor who is recognised as a victim in criminal proceedings.
- Develop recommendations on filling in protocols in administrative offence cases stipulated in Article 173-2 of the Code of Ukraine on Administrative Offences, and provide therein a clear understanding and interpretation of the concept of a "child witness – child survivor" of domestic violence and indicate such a child as a victim.
- Improve the operation of social services entitled to act as legal representatives of such minors and juvenile victims.
- Ensure the identification and proper qualification of sexual acts, in particular through the understanding of the "voluntary consent" concept.
- Improve the institute of forensic psychological examinations in cases of sexual violence.
- Increase the number of specialised mobile police units responsible for counteracting domestic violence.
- Create a mechanism for monitoring the implementation of programmes for perpetrators by local governments.
- Reorient the criminal proceedings to the victim.
- The State Migration Service must maintain statistics of the number of decisions taken to recognise foreigners and stateless persons as refugees or persons in need of additional protection, broken down by gender, age and grounds for such decisions.
- Training regarding the recognition of gender-based violence as a form of persecution within the meaning of Article 1A(2) of the 1951 Convention Relating to the Status of Refugees and as a form of grievous harm, which is the basis for additional (subsidiary) protection, should be conducted for the State Migration Service employees.

Statistics on cases of gender-based violence in Ukraine as of March 2023

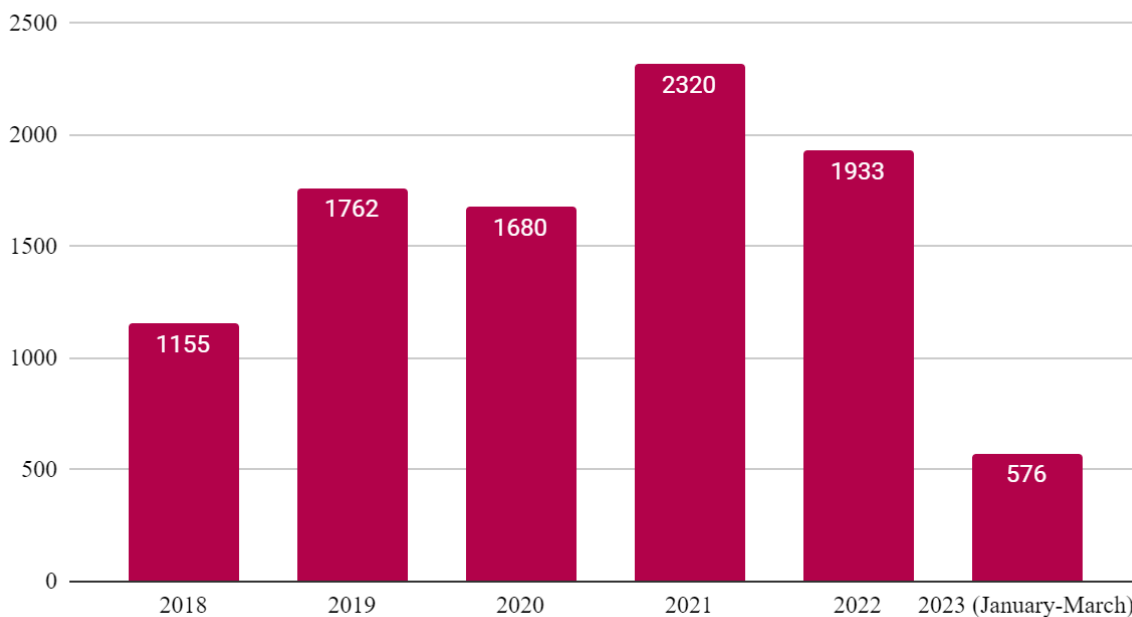
According to the National Police², the following number of women suffered from domestic violence (Article 173-2 of the Code of Ukraine on Administrative Offences):

Number of domestic violence offences



The following number of women suffered from gender-based violence (Article 173-2 of the Code of Ukraine on Administrative Offences):

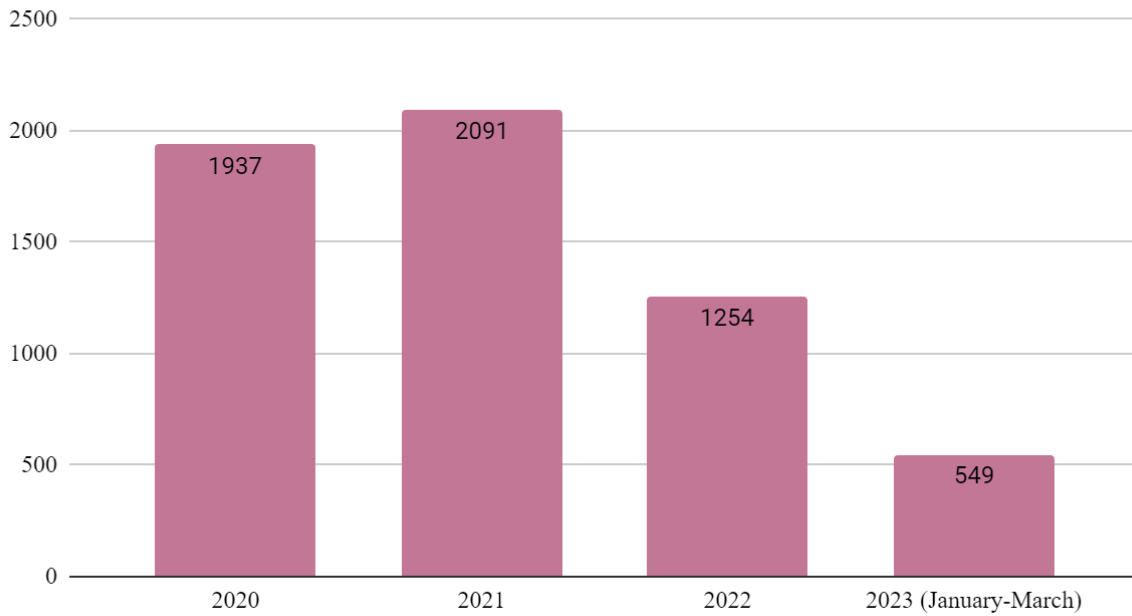
Number of Offences



² Response of the National Police of Ukraine to the request sent by the Ukrainian Women Lawyers Association “JurFem.”

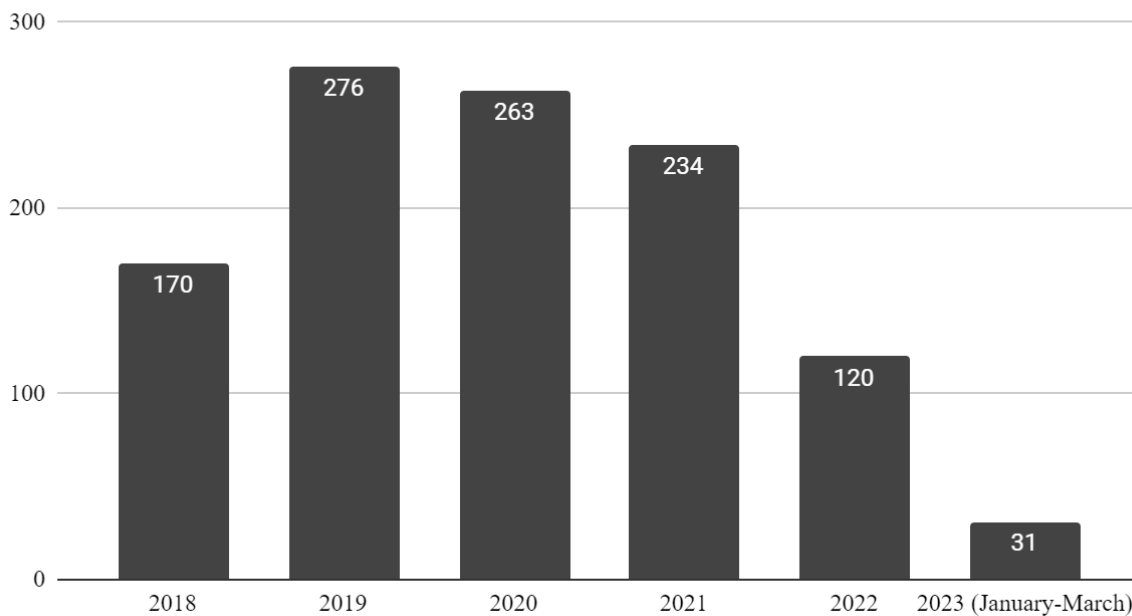
According to the Prosecutor General’s Office of Ukraine³, the following number of women suffered from domestic violence (Article 126-1 of the Criminal Code of Ukraine):

Number of Offences



The following number of women suffered in rape cases (Article 152 of the Criminal Code of Ukraine):

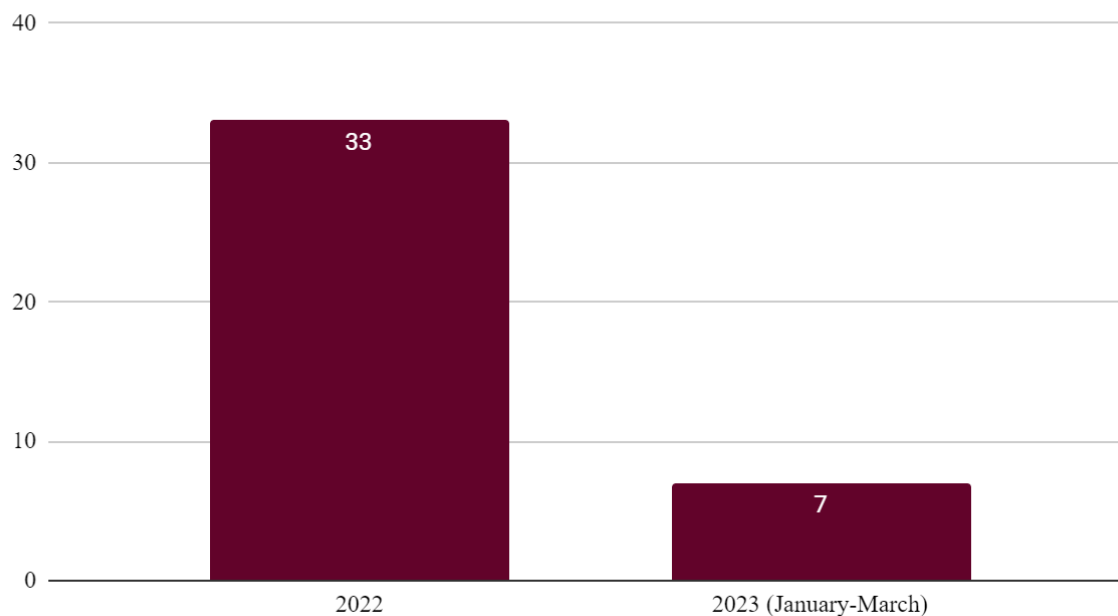
Number of Offences



³ Response of the Prosecutor General’s Office of Ukraine to the request sent by the Ukrainian Women Lawyers Association “JurFem.”

The following number of women suffered in sexual violence cases (Article 153 of the Criminal Code of Ukraine):

Number of Offences



The statistics found indicate that only 50% of sexual violence cases come to trial. Only 16 out of 31 recorded criminal offences of sexual violence under Article 153 of the Criminal Code came to trial for six months of 2022, which is the trend of previous years as well. Moreover, the national criminal proceedings are more focused on the accused, ensuring that the procedure is followed in relation to them and not the victim. Consequently, victims are not always willing to report to the National Police, resulting in distrust in the law enforcement system⁴.

II. CHAPTER II

Integrated Policies and Data Collection (Chapter II of the Convention, Articles 7 to 11)

Article 7 – Comprehensive and Co-Ordinated Policies

1) Current implementation status. According to Article 7 of the Istanbul Convention, parties shall take the necessary legislative and other measures to adopt and implement state-wide effective, comprehensive and co-ordinated policies encompassing all relevant measures to prevent and combat all forms of violence covered by the scope of this Convention and offer a holistic response to violence against women.

The national government has adopted a number of strategies and state programmes to prevent and combat domestic violence and implement gender equality (e. g., CMU Resolution No. 273 of 11 April 2018, “State Social Programme on Ensuring Equal Rights and

⁴ URL:

<https://www.radiosvoboda.org/a/zgvaltuvannya-nepovnolitni-sud-pravozakhysnyky-prokuratura/32336396.html>

Opportunities for Women and Men for the period until 2021”⁵; CMU Order No. 1128 “On the Approval of the Concept of Communication in the Field of Gender Equality” of 16 September 2020⁶; Order No. 1578 “On the Approval of the Plan of Measures to Implement Commitments of the Government of Ukraine Taken within the Framework of the ‘Biarritz Partnership’ International Initiative for the Establishment of Gender Equality” of 16 December 2020⁷; Presidential Decree No. 398/2020 “On Emergency Measures to Prevent and Combat Domestic Violence, Gender-Based Violence, and Protect the Rights of Victims Thereof” of 21 September 2020⁸, CMU Resolution No. 145 “State Social Programme for Preventing and Combating Domestic Violence and Gender-Based Violence for the Period Until 2025” of 24 February 2021⁹, CMU Order “State Strategy on Ensuring Equal Rights and Opportunities for Women and Men for the period until 2030” of 12 August 2022¹⁰, etc.).

On 22 August 2018, the “Procedure for the cooperation between individuals/entities implementing measures in the field of preventing and counteracting domestic and gender-based violence” was also approved at the national level¹¹. The aforesaid Procedure provides that measures for preventing and counteracting domestic and gender-based violence shall be coordinated, and their implementation shall be monitored at the local level by authorised persons (coordinators) within executive authorities and local governments, which will fulfil the functions of ensuring equality of rights and opportunities for women and men, as well as preventing and counteracting gender-based violence.

2) Identified implementation issues. However, despite the adopted strategic documents, there is still a continuing lack of a nationwide effective, comprehensive and coordinated policy in terms of the prevention of domestic and gender-based violence. *Bodies dealing with counteracting sexual violence do not coordinate the issues properly.*

This is confirmed by the fact that the Ministry of Social Policy, as a coordinating entity, the Ministry of Internal Affairs and the General Prosecutor’s Office collect information on the number of domestic violence and sexual violence cases. However, in the end, such *data vary and do not take into account the identity of the perpetrator and the victim, their relationship, etc.*

Despite the requirements of the Istanbul Convention and the Law of Ukraine “On Preventing and Combating Domestic Violence” regarding the monitoring of the implementation of legislation and the effective protection of survivors, *the monitoring results are not publicly available.* In particular, in early June 2023, there were no monitoring results or information on cases of domestic violence on the home page of the website of the Ministry of Social Policy of Ukraine¹².

At the same time, within the scope of the interaction between individuals/entities taking measures in the field of preventing and counteracting domestic and gender-based violence, *law enforcement agencies sometimes fail to timely forward information to their*

⁵ URL: <https://zakon.rada.gov.ua/laws/show/273-2018-%D0%BF#Text>

⁶ URL: <https://zakon.rada.gov.ua/laws/show/1128-2020-%D1%80#Text>

⁷ URL: <https://zakon.rada.gov.ua/laws/show/1578-2020-%D1%80#Text>

⁸ URL: <https://zakon.rada.gov.ua/laws/show/398/2020#Text>

⁹ URL: <https://zakon.rada.gov.ua/laws/show/145-2021-%D0%BF#Text>

¹⁰ URL:

<http://www.kmu.gov.ua/news/uriadom-skhvaleno-derzhavnu-stratehiiu-zabezpechennia-rivnykh-prav-ta-mozhl-yvostei-zhinok-i-cholovikiv-na-period-do-2030-roku>

¹¹ URL: <https://zakon.rada.gov.ua/laws/show/658-2018-%D0%BF>

¹² URL:

<http://www.women.lviv.ua/wp-content/uploads/2023/07/Zvit-Stambulska-Konventsija-informatsiy-na-kampaniya-finalnyy-.pdf>

*structural subdivisions on family issues, local government's children services, and vice versa*¹³.

In war conditions, considering the growth of domestic violence cases, there is an urgent need not only to update the State Social Programme for Preventing and Combating Domestic Violence and Gender-Based Violence for the Period Until 2025 and the “Procedure for the cooperation between individuals/entities implementing measures in the field of preventing and counteracting domestic and gender-based violence”, but also to actually fulfil and implement them in a coordinated manner.

Therefore, to create an effective coordinated policy to prevent domestic and gender-based violence, it is important to enshrine the need to take emergency measures by local executive authorities, namely:

- develop and approve emergency measures plans to prevent and counteract domestic and gender-based violence, including identify facts of domestic violence and respond to it in a timely manner;
- inform of such facts;
- provide appropriate assistance and protection to victims;
- work with perpetrators.

In order to highlight objective data on the situation in the field of preventing and counteracting domestic and gender-based violence, it is extremely *necessary to update the indicators and methods of collecting statistical information on cases of domestic and gender-based violence*. Data on cases of domestic and gender-based violence should be recorded in the Unified State Register of Cases of Domestic Violence and Gender-Based Violence, with information to be entered therein by all individuals/entities taking measures in the field of preventing and counteracting domestic violence or individuals/entities taking measures in the field of preventing and counteracting gender-based violence.

An annual publication of information on the situation in the field of preventing and counteracting domestic and gender-based violence and the results of the measures taken should also be introduced at the national level. The Ministry of Social Policy, as a dedicated authority, must publish information on the situation of domestic and gender-based violence on its website.

The government must ensure effective provision of information to the population on:

- rights of survivors of domestic violence and/or gender-based violence;
- mechanisms for exercising the rights of survivors of domestic violence and/or gender-based violence;
- services rendered by general and designated support services to survivors and the method of receiving them;
- liability of perpetrators of domestic violence and/or gender-based violence.

A need to implement a nationwide effective, comprehensive and coordinated policy encompassing all relevant measures to prevent not only cases of domestic violence but also sexual violence not related to domestic one should get a specific mention. As of today, the above legal regulations do not include the specific nature of working with survivors of sexual violence, the collection of relevant statistical information, and the proper cooperation of all individuals/entities.

¹³ URL:

https://www.ombudsman.gov.ua/news_details/monitoring-viyavlennya-faktiv-domashnogo-nasilstva-ta-svoyechasnogo-reaguvannya-na-nih-viddilom-policiyi-3-vinnickogo-rajonного-upravlinnya-policiyi-gunp-u-vinnickij-oblasti

Article 8 – Financial Resources

1) Current implementation status. According to the “Funding Volumes and Sources” section of the State Social Programme for Preventing and Combating Domestic Violence and Gender-Based Violence for the Period Until 2025, the Programme implementation is supposed to be funded by the state, local budgets, and other sources, not prohibited by law.

2) Identified implementation issues. In practice, there is *insufficient funding at all stages of the system of combating and preventing domestic and sexual violence*. Thus, a number of projects related to preventing and combating domestic and gender-based violence are actively financed with the support of international partners. In particular, this concerns the creation of mobile teams to respond to domestic violence cases.

Financial support of designated support services for survivors is one of the urgent problems of such institutions in connection with the growing demand for appeals to the latter. However, precisely because of the lack of funding, the number of such designated services is insufficient. Moreover, *the funding of specialists working in the system of combating and preventing domestic and gender-based violence is insufficient*, so there are few of them¹⁴. Qualification improvement and training related to preventing and combating domestic and gender-based violence and promoting gender equality also take place in most cases with the help of international support.

Every year, raion councils approve raion-specific Programmes for preventing and combating domestic violence and human trafficking. However, due to the lack of funding for the implementation of measures defined by the Programme, *informational and educational measures to raise the awareness of the population about preventing and combating domestic and sexual violence are often not carried out*.

Article 9 - Non-governmental organisations and civil society

1) Current implementation status. In Ukraine, the public sector is actively involved in the implementation of the policy for protecting women’s rights from violence. There are many organisations in Ukraine whose purpose is to promote professional capacity, strengthen leadership, and create conditions for the self-fulfilment of women of a certain profession or group. There are also organisations whose goal is to strengthen the legal protection of women and advocate for their empowerment.

2) Identified implementation issues. In general, there is a developed network of women’s NGOs in Ukraine, which is associated with an accessible and simple procedure for registering NGOs, as well as the society’s desire to develop the values of gender equality and equal rights of men and women.

However, *the state does not provide financial support to NGOs at the national and local levels*. There are also *difficulties in the interaction of the public in advocating women’s rights before the central authorities*. This applies, in particular, to the long-term non-adoption of the necessary draft law to combat discrimination in the workplace¹⁵, the adoption of legislation on preventing and combating domestic violence with amendments that exclude from the text such concepts as “gender,” “gender identity,” “gender-based violence,”

¹⁴ URL: <https://ukurier.gov.ua/uk/articles/nasilstvo-yak-smittya-treba-vinositi-z-pomeshkanny/>

¹⁵URL: <https://tsn.ua/politika/rada-z-p-vatogo-razu-priynvala-popravku-schodo-protidiyi-diskriminaciyi-na-roboti-532284.html>

“gender stereotypes,” and “sexual orientation”¹⁶. Moreover, the Istanbul Convention was ratified 11 years after its signing¹⁷.

Article 10 – Co-ordinating body

1) Current implementation status. The Ministry of Social Policy of Ukraine is the main body ensuring the development and implementation of the state policy on preventing and combating domestic violence, gender-based violence, and human trafficking, as well as ensuring equal rights and opportunities for women and men¹⁸. It includes, inter alia, the Expert Group on Combating Human Trafficking, Domestic Violence and Gender Discrimination¹⁹.

The Ministry of Social Policy also coordinates the cooperation of all individuals/entities implementing measures in the field of preventing and combating domestic and gender-based violence at the national level. Oblast state administrations and local governments are responsible for coordination at the regional level.

On 26 August 2020, the National Social Service of Ukraine was established. The main tasks of the National Social Service include the implementation of the state policy in the field of social protection of the population on preventing and combating domestic violence, gender-based violence, and human trafficking; as well as ensuring equal rights and opportunities for women and men.

The Commission for Coordination of Interaction of Executive Bodies to Ensure Equal Rights and Opportunities for Women and Men was established under the leadership of the Deputy Prime Minister for European and Euro-Atlantic Integration of Ukraine.

The Cabinet of Ministers of Ukraine also has a Consultative and Advisory Body for family, gender equality, demographic development, preventing and combating domestic violence and counteracting human trafficking. In addition to the central advisory body, similar consultative and advisory councils were created at the regional, raion, and city levels.

2) Identified implementation issues. Local coordination and monitoring functions are assigned to oblast state administrations and local governments. However, *there is a lack of coordinated monitoring regarding the state of ensuring the rights of persons who suffered from domestic and gender-based violence.*

No separate authority is authorised to monitor and assess policies and measures to prevent and combat all forms of violence covered by the Convention.

Article 11 – Data collection and research

1) Current implementation status. The Ministry of Social Policy is authorised to collect, analyse, and distribute information on domestic violence in accordance with the legislation and improve the indicator system in the form of state statistical reporting on preventing and combating domestic violence. The National Social Service shall report to the Ministry of Social Policy, to which, in turn, the National Police and structural divisions report, whose powers include the taking of measures in the field of preventing and combating domestic and gender-based violence of the Council of Ministers of the Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol City State Administrations.

¹⁶URL:

https://zmina.info/news/deputatka_khoche_povernuti_ponjiattjia_jender_v_zakon_pro_domashne_nasilstvo-2/

¹⁷ Ukraine signed the Istanbul Convention on 7 November 2011.

¹⁸ URL: <https://zakon.rada.gov.ua/laws/show/423-2015-%D0%BF#Text>

¹⁹ URL: <https://www.msp.gov.ua/content/struktura-centralnogo-aparatu-ministerstva.html>

Data on the commission of criminal offences in the form of domestic violence and offences related to sexual violence are collected by the Prosecutor General's Office of Ukraine. The Prosecutor General's Office of Ukraine shall generate a single report and provide information from the Unified Register of Pre-trial Investigations in compliance with the legislation of Ukraine.

The National Police of Ukraine collects data on the number of domestic violence cases (as an administrative offence) and gender-based violence, issues restraining orders, and keeps records of individuals who have committed domestic violence. Such data are collected disaggregated by sex of persons.

2) Identified implementation issues. According to the Istanbul Convention, Ukraine undertakes to regularly collect statistical and population data on cases of violence against women and domestic violence. The data must reflect information on the gender of the survivor and the perpetrator, their family relations, place of residence, and age.

In view of responses received by JurFem to its requests for information from a number of state authorities (Ministry of Internal Affairs, General Prosecutor's Office, National Police of Ukraine, Ministry of Health, Ministry of Internal Affairs, Ministry of Social Affairs, Ministry of Social Policy, etc.), *there is a systemic problem with data collection by executive authorities and law enforcement agencies. Such data are not always collected by the person's sex, age and place of residence.*

Thus, in response to JurFem's request, the State Migration Service reported that information on the number of decisions taken to recognise foreigners and stateless persons as refugees or persons in need of additional protection due to gender-based violence against a person shall be collected without disaggregation by sex, age and grounds for such decisions.

The Prosecutor General's Office of Ukraine and the National Police maintain statistics on the number of offences (domestic violence, rape, sexual violence, etc.), issuance of restraining orders, and the record of perpetrators based only on the victim's gender, with an indication of a separate victim, i.e. a child. In response to the JurFem's request for information of 5 June 2023, the Prosecutor General's Office noted: "In view of the above, please be informed that reports prepared by the prosecutor's office do not stipulate disaggregation of data on registered criminal offences (proceedings) and the results of their investigation in terms of the victim and the perpetrator (by gender, age, type of family relationship). It is, therefore, impossible to provide such information in the manner prescribed by the Law of Ukraine "On Access to Public Information."

Therefore, as of today²⁰, *there are no official data in Ukraine indicating locations where women are most often victims of gender-based violence; we do not know the age of victims and perpetrators, the type of family relationship between victims and perpetrators, the presence of children witnesses, and connection with previous violent crimes committed against the victim.*

The accounting data also contain no information on the share of convictions for all forms of violence covered by the Convention nor on the number of issued restraining orders to protect the victims of violence.

There are no separate judicial statistics on the issue of restraining orders, refusal to issue them, etc., issue of court decisions on prosecution for domestic and sexual violence, etc.

Under the Law of Ukraine "On Preventing and Combating Domestic Violence", the legal basis for the creation of the Unified State Register of Cases of Domestic Violence and Gender-Based Violence has been laid. The Law stipulated that the Register would be an automated information and telecommunications system designed for the collection,

²⁰ Data of 5 June 2023

registration, accumulation, storage, adaptation, change, update, use, dissemination (distribution, implementation, transmission), depersonalisation and destruction of data on cases of domestic and gender-based violence defined by this Law. *However, no Register has been created as of today.*

III. Prevention (Chapter III of the Convention, Articles 12 to 17)

Article 12 – General obligations

1) Current implementation status. Liability for violence against women is established in the legislation on administrative offences and the criminal legislation of Ukraine.

The Code of Administrative Offences contains Article 173-2 (“Commission of domestic violence, gender-based violence, failure to comply with an emergency barring order or failure to report the place of temporary residence.”)

The Criminal Code of Ukraine criminalises the following actions that include violence against women: intentional homicide (Article 115), negligent homicide (Article 119), incitement to suicide (Article 120), intended grievous bodily injury (Article 121), intended bodily injury of medium gravity (Article 122), intended minor bodily injury (Article 125), battery and torture (Article 126), domestic violence (Article 126-1) (covers economic violence, psychological violence, sexual violence, physical violence), torture (Article 127), illegal confinement or abduction of a person (Article 146), enforced disappearance (Article 146-1), taking hostage (Article 147), trafficking in human beings (Article 149), forced marriage (Article 151²), rape (Article 152), sexual violence (Article 153), compulsion to sexual intercourse (Article 154).

2) Identified implementation issues. The national legislation *does not provide for the administrative liability* of officials in the case of failure to report domestic violence against a child (Article 173-5 of the Code of Ukraine on Administrative Offences), nor does it stipulate liability for sexual harassment.

The concept of “criminal offences related to domestic violence” *is not defined in the criminal legislation*. At the same time, *no criminal liability has been established* for offences related to gender-based violence, stalking, and sexual cyber-violence.

The Criminal Procedure Code of Ukraine also provides certain terms for bringing perpetrators to justice for domestic and sexual violence, which significantly restricts survivors’ access to justice and prosecution of perpetrators.

Article 13 – Awareness-raising

1) Current implementation status. Awareness-raising courses are available for citizens on the Prometheus online education platform: “Women and Men: Gender for All”, “I Know Gender”, “Gender Budgeting for Community Development”, and “Gender Equality and Combating Sexual Harassment in the Military.”

The “JurFem: Education” Centre of the Ukrainian Women Lawyers Association “JurFem”²¹ conducts webinars, lectures, courses and training on raising awareness in the field of gender equality for human rights defenders, state authorities and local governments. The Centre has set up and maintains an interactive digital educational platform²² where one may watch video courses, find webinar recordings, view the JurFem library, and download manuals, posters, etc.

²¹ URL: <https://jurfem.com.ua/tsentr-jurfemosvita/>

²² URL: <https://jurfemosvita.com/>

State authorities and local governments²³ conduct awareness-raising campaigns on combating violence, for example, the all-Ukrainian campaign “16 Days Against Violence.”²⁴ During 2021, achievements as part of the Biarritz Partnership implementation included 10,200 awareness-raising and educational activities on preventing and combating domestic violence²⁵.

2) Identified implementation issues. The Ukrainian Women Lawyers Association “JurFem” conducted a survey on the effectiveness of responding to sexual violence in Ukraine during May – early June 2023. 747 people took part in the survey, of which 94.5% were women, 5.1% were men, and 0.4% did not want to indicate their sex. The reasons that, according to respondents, prevent survivors from seeking help or reporting criminal offences include 58.4% of respondents answered that survivors did not know how to act²⁶. Such data indicate that *national and local authorities fail to do enough to raise awareness among citizens on the prevention and protection from sexual violence.*

Awareness-raising campaigns at the national and local levels are therefore needed, especially in the period of full-scale invasion, teaching how to protect oneself from sexual violence and how to get legal aid.

Article 14 – Education

1) current implementation status. On 12 September 2020, Ukraine became a member of the Biarritz Partnership. As part of its accession to the international initiative, Ukraine undertook obligations on gender mainstreaming in the education process. On 20 December 2022, the Cabinet of Ministers of Ukraine approved the Strategy for Implementation of Gender Equality in Education until 2030 to fulfil the obligations as part of the Biarritz Partnership.

The National Social Service organises the training of civil servants on ensuring equal rights and opportunities for women and men; organisation in the prescribed manner of scientific and expert research on ensuring equal rights and opportunities for women and men.

The online course “Gender Equality and Human Rights in the Operation of Administrative Service Centres”²⁷ for ASC employees and representatives of local governments is hosted on the Diia website. Employees of the State Migration Service Affairs undergo advanced training on the following topics: Preventing and Combating Sexual Harassment at the Workplace, Gender Equality and Combating Sexual Harassment in the Military Sphere, Implementation of Gender Policy from the Ukrainian School of Government, Project “Gender Budgeting in Ukraine” on the PROMETHEUS online platform, online platform of the National Democratic Institute, and online platform of the State Migration Service.²⁸

²³

URL:

<https://shyroke.org.ua/hovorymo-ni-nasylliu-rozpochynaiemo-tradytsiyuu-kampaniiu-shchodo-protydii-domashn-omu-nasyll-stvu/>

²⁴URL: <https://mon.gov.ua/ua/news/vseukrayinska-kampaniya-16-dniv-proti-nasilstva>

²⁵URL: <https://www.msp.gov.ua/news/20965.html?PrintVersion>

²⁶URL:

<https://jurfem.com.ua/wp-content/uploads/2023/06/%D1%80%D0%B5%D0%B7%D1%83%D0%BB%D1%8C%D1%82%D0%B0%D1%82%D0%B8-%D0%BE%D0%BF%D0%B8%D1%82%D1%83%D0%B2%D0%B0%D0%BD%D0%BD%D1%8E.pdf>

²⁷URL: <https://center.diia.gov.ua/education/course/genderna-rivnist-ta-prava-ludini-v-roboti-cnapu>

²⁸ Response to the request filed by the Ukrainian Women Lawyers Association “JurFem”.

Prosecutors undergo advanced training on the following topics: Prosecutor's Counteracting Domestic Violence, Gender-Based and Sexual Violence. Such training sessions are provided by the Prosecutors' Training Centre of Ukraine.²⁹

Judges of local courts and courts of appeal, as well as their assistants, regularly complete advanced training on the following topics: Consideration of Cases Related to Domestic Violence (distance course), Consideration of Cases against Sexual Freedom and Sexual Integrity (seminar), Application of Legislation on Combating Domestic Violence (lecture), Domestic Violence: National Protection Mechanisms and Case-Law (online seminar). Judges are trained by the National School of Judges of Ukraine.³⁰ The National School of Judges of Ukraine regularly holds training to improve the qualifications of judges in the consideration of cases related to domestic violence³¹.

In accordance with the Directory of Professional Military Education and Advanced Training Courses for Service Personnel and Employees of the Armed Forces of Ukraine, the following courses are offered by higher military educational institutions and military educational units of higher education institutions: Advanced Training in Gender Equality and the Fundamentals of Gender Policy in the Armed Forces of Ukraine.³² From December 2022 to January 2023, the Ministry of Defence, together with the PROTECT Programme (funded by the Ministry of Foreign Affairs of Canada), organised and conducted nine training sessions for full-time and freelance advisers on gender issues regarding the peculiarities of performing functional duties during the active phase of the armed conflict, in particular, the role of gender advisers in overcoming the consequences of sexual violence in conflict.

The following training is held for central, regional and local mass media, managers, employees of press services of central executive authorities and state institutions, managers and journalists of regional mass media and employees of press services, departments within central executive authorities for working with mass media, which specialise in covering gender equality issues: "Peculiarities of Covering Sexual Violence in General and Sexual Violence in Conditions of War," "Agenda: Women, Peace, and Security" and "Youth, Peace, and Security," as well as Human Security in the Context of Ukraine," "Non-discrimination and Combating Violence in Terms of National Gender Policy," "Fundamentals of Gender Policy."³³

2) Identified implementation issues. In 2022, a working group on gender audit was created by the Ministry of Education and Science, whose main task was to develop the methodology and criteria for gender audit of educational establishments³⁴. *The audit of educational establishments was supposed to start in 2022. However, it is currently impossible due to the imposition of martial law throughout Ukraine.*

In 2016–2017, to implement the State Social Programme on Ensuring Equal Rights and Opportunities for Women and Men for the period until 2016, with the joint efforts of "EdCamp Ukraine" NGO, "KRONA" Public Information and Analytical Centre, and the Institute of Education Content Modernisation, and with support from Heinrich Böll Foundation's Office in Ukraine, a project on the development and implementation of gender

²⁹ Response to the request filed by the Ukrainian Women Lawyers Association "JurFem".

³⁰ Response to the request filed by the Ukrainian Women Lawyers Association "JurFem".

³¹

URL:

<http://nsj.gov.ua/ua/about/announcement/21-kvitnya-2023-roku-trening-osoblivosti-rozglyadu-sprav-povyazanih-z-domashnim-nasilstvom-v-umovah-voennogo-stanu/u>

³² Response to the request filed by the Ukrainian Women Lawyers Association "JurFem".

³³ Response to the request filed by the Ukrainian Women Lawyers Association "JurFem".

³⁴URL:

<https://mon.gov.ua/ua/npa/pro-zatverdzhennya-metodologiyi-ta-kriteriyiv-provedennya-gendernogo-audituzakladiv-osviti>

and anti-discrimination examination of textbook drafts (2016 – for the 8th grade, 2017 – for the 9th grade, 2018 – for the 1st and 10th grades) was implemented, which were recommended for publication at state’s expense in the II round of the competitive selection of textbook projects for secondary school students of educational institutions. The examination proved that *98% of textbook drafts submitted for the competition contained manifestations of direct and/or indirect discrimination based on various protected grounds, primarily on the grounds of gender, disability, and age.*³⁵

In November 2020, Order No. 931 of the Ministry of Education and Science of Ukraine of 20 July 2020, “On the Approval of the Procedure for Assigning Standardisation Marks for Educational Literature and Educational Programmes,” entered into force. Under this Procedure, an anti-discriminatory examination was conducted for objects of standardisation marks that may potentially participate in the competitive selection of textbooks and manuals to be published using budget funds. During 2021, all educational literature and curricula submitted for approval by the Ministry of Education and Science of Ukraine were subject to an anti-discrimination examination. According to the information received in response to a request to the State Scientific Institution “Institute of Education Content Modernisation”:

- an anti-discrimination examination of textbooks was carried out in 2021–2022 in the course of competitive selection of textbooks for general education institutions: 141 textbooks for the 5th grade and 144 textbooks for the 9th grade;

In 2022, 55 anti-discrimination examinations of educational literature for preschool education institutions were conducted, which contributed to improving the educational literature quality and avoiding gender-based or other discrimination in educational publications³⁶. However, *taking into account the amount of educational literature, it is obvious that more anti-discrimination examinations of textbooks should be conducted.* This requires both financial resources and a high level of expertise.

Gender Education Centres and gender laboratories operate only in some educational institutions of different accreditation levels.

Currently, courses/subjects/lessons on equality, debunking gender stereotypes, interpersonal relations without violence, sex education, etc., have not yet been introduced into the educational process (all levels of education: primary, secondary, higher). According to the State Strategy on Ensuring Equal Rights and Opportunities for Women and Men for the period until 2030³⁷:

“... in Ukraine, gender-based discrimination remains in studying disciplines, such as “Labour skills training” and “Defence of Ukraine.” There is a low level of gender sensitivity of educators.”

Moreover, the following problems in education that need to be solved remain relevant:

- *insufficient consideration of gender aspects when creating and implementing educational policy, which leads to persisting gender stereotypes and discriminatory interpretation of educational content at all educational levels;*

³⁵URL:

<https://www.kmu.gov.ua/storage/app/sites/1/18%20-%20Department/18%20-%20PDF/02.2021/genderna-polityka.pdf>

³⁶URL:

https://mon.gov.ua/storage/app/media/rizne/Plany_roboty/2023/31.01.2023/Zvit_pro_vykon_operatyvn_planu_MO_N-2022-30.01.2023.pdf

³⁷ URL: <https://zakon.rada.gov.ua/laws/show/752-2022-%D1%80#Text>

- *poor representation of girls among STEM education (science, technology, engineering, mathematics) students, which limits their employment opportunities in high-paying economy sectors;*
- *limited access to lifelong learning through formal, non-formal and informal education of certain population groups, primarily women living in rural areas, elderly women, women with disabilities, HIV-infected women, representatives of the Roma national minority, other populations subject to multiple discrimination, etc.*

There are also no training programs for lawyers and attorneys, which should provide relevant specialists with appropriate tools for identifying and working with cases of violence in the early stages, as well as advanced training programs on ways to protect victims of gender-based violence.

No training is provided to employees of the State Migration Service on granting the status of a refugee and a person in need of additional or temporary protection based on the recognition of experienced gender-based violence as a form of persecution (a form of serious harm) under Article 60 (part 1) of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence³⁸.

There is no obligation for teaching staff of general secondary education institutions to undergo training on domestic violence, sexual violence, sex-based violence, gender-based violence, and conflict-related sexual violence. Public employees and officials are not obliged to undergo mandatory advanced training on combating gender-based violence and implementing gender equality.

Article 15 – Training of professionals

1) Current implementation status. Educational institutions of the Ministry of Internal Affairs of Ukraine provide initial professional training of police officers and advanced training, while several subjects related to combating domestic and sexual violence are taught as part of Bachelor's and Master's programmes.

Specialists whose competence includes preventing and combating domestic violence are trained by the following institutions: Ukrainian School of Governance, pre-school, out-of-school, general secondary, professional (vocational), professional pre-higher, higher, post-graduate pedagogical education institutions, structural units for education of oblast and Kyiv City State Administrations, higher educational institutions of the Ministry of Education and Science, authorised divisions of territorial bodies of the National Police of Ukraine, the National Police, higher educational institutions of the Ministry of Internal Affairs system, higher educational institutions training Master in “Public Management and Administration”, healthcare institutions and establishments, structural subdivisions for healthcare of oblast and Kyiv City State Administrations, higher educational institutions of the Ministry of Health, Free Secondary Legal Aid Centres, probation bodies, Oblast Prosecutor's Offices, Prosecutors' Training Centre, structural subdivisions authorised to take measures in the field of preventing and combating domestic and gender-based violence of the Council of Ministers of the Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol City State Administrations, the Ministry of Internal Affairs, the Ministry of Education and Science, the Ministry of Health, the Ministry of Justice, the National School of Judges (line 33), Legal Aid Coordination Centre, “Probation Centre” Public Institution, Prosecutor General's Office, National Agency of Ukraine for Civil Service, Academy of Advocacy, National Social Service.

³⁸ The State Migration Service's response to the request filed by the Ukrainian Women Lawyers Association “JurFem”.

2) Implementation issues found. Although some institutions have programmes and courses on combating domestic and gender-based violence, in general, the modern training of specialists on the outlined issues is characterised by the lack of a systematic and consistent approach, an insufficient level of mainstreaming of preventing and combating domestic violence and sexual violence, in the curricula of specialists at the higher educational institutions, and such education is mainly provided in the form of training sessions with the support from non-governmental and public organisations³⁹⁴⁰. Overall, there is no established obligation to undergo training on gender equality and non-discrimination as a condition for hiring or qualification improvement in the public service sector.

Currently, higher education institutions do not train dedicated professionals in the field of gender equality or combating gender-based violence.

There is a shortage of social specialists and psychologists. At the same time, the level of specialised knowledge and skills among specialists (especially newly appointed ones) is insufficient, and their psychological “burnout” is observed.

Article 16 – Preventive intervention and treatment programmes

1) Current implementation status. Article 24 of the Law of Ukraine, “On Preventing and Combating Domestic Violence,” provides for special measures to combat domestic violence. Special measures to combat domestic violence include preventive registration of a perpetrator and carrying out preventive work with them; referring a perpetrator to a perpetrator programme. To ensure comprehensive work with persons prone to committing domestic violence, there is a Model Programme for Perpetrators, approved by Order No. 1434⁴¹ of the Ministry of Social Policy of Ukraine of 1 October 2018, aimed at correcting the person’s aggressive behaviour and shaping a new model of non-aggressive behaviour. Local programmes for perpetrators may be developed by entities engaged in preventing and combating domestic violence based on the Model Programme. Thus, according to paragraph 27 of the “Procedure for cooperation between individuals/entities implementing measures in the field of preventing and combating domestic and gender-based violence”, approved by Resolution No. 658 of the Cabinet of Ministers of Ukraine of 22 August 2018⁴², state administrations and executive authorities of rural, settlement, city, district in cities (if any) councils, including consolidated territorial communities, develop and implement local programmes for preventing and combating violence within the corresponding administrative and territorial units.

As of today, there is a Comprehensive Programme in place for correctional work with men who commit violence or belong to the risk group for committing violence, which takes into account provisions of the Model Programme for Perpetrators⁴³.

According to structural subdivisions of Oblast and Kyiv city state administrations responsible for the implementation of measures in the field of preventing and combating

³⁹ URL:

http://dspace.oduvs.edu.ua/bitstream/123456789/3102/1/%D0%9E%D0%94%D0%A3%D0%92%D0%A1_%D0%A1%D1%83%D1%87%D0%B0%D1%81%D0%BD%D0%B8%D0%B9_%D1%81%D1%82%D0%B0%D0%BD_22.pdf

⁴⁰URL:

https://www.unicef.org/ukraine/sites/unicef.org.ukraine/files/2020-07/%D0%9F%D0%BE%D1%81%D1%96%D0%B1%D0%BD%D0%B8%D0%BA_%D0%9F%D1%80%D0%BE%D1%82%D0%B8%D0%B4%D1%96%D1%8F%20%D0%BD%D0%B0%D1%81%D0%B8%D0%BB%D1%8C%D1%81%D1%82%D0%B2%D1%83_0.pdf

⁴¹ URL: <https://zakon.rada.gov.ua/laws/show/z1222-18#Text>

⁴² URL: <https://zakon.rada.gov.ua/laws/show/658-2018-%D0%BF#Text>

⁴³ URL: https://www.healthright.org.ua/wp-content/uploads/2014/10/Choloviku-----_.pdf

domestic violence: 33 persons completed programmes for perpetrators in Q1 2023, 83 in 2022, 290 in 2021, 599 in 2020, 312 in 2019, and 588 in 2018⁴⁴. Comparing these numbers with the numbers of domestic violence cases, it is obvious that a *very small share of perpetrators goes through the programme for perpetrators*.

An authorised unit of the National Police of Ukraine includes the perpetrator in the preventive register (and removes it from such register) upon revealing the fact of their commission of domestic violence for the period established by the law and performs preventive work with them⁴⁵.

The national legislation also stipulates probation programmes applied when a person is brought to criminal liability, in particular for crimes related to domestic violence (Article 91-1 of the Criminal Code of Ukraine).

Orders of the Ministry of Justice of Ukraine approved four types of probation programmes: “Changing Pro-Criminal Thinking,” “Preventing the Consumption of Psychoactive Substances,” “Overcoming Aggressive Behaviour,” and “Shaping Life Skills.”

The programme, to which people convicted of crimes related to domestic violence are referred individually, is called “Overcoming Aggressive Behaviour”. Its goal is to achieve positive changes in the behaviour of probation entities by developing skills of self-regulation of their psycho-emotional states, managing anger and aggressive behaviour, etc. If a person has corresponding alcohol or drug addictions, then a programme called: “Preventing the Consumption of Psychoactive Substances” is provided for such individuals. The programme aims to inform the person about the harm of such substances and help them overcome their addiction.

2) Identified implementation issues. Despite the availability of approved probation programmes and programmes for perpetrators, which are designed to help a person overcome manifestations of aggression, alcohol addiction (“Overcoming Aggressive Behaviour”, “Preventing the Consumption of Psychoactive Substances”, as well as “Changing Pro-Criminal Thinking”) and programmes for perpetrators, *the courts rarely refer perpetrators to such programmes, while victims do not exercise their right to request that perpetrators be referred to such programmes*.

Moreover, *the content of such programmes needs updating, and their efficiency requires evaluation*. This being said, following the analysis of such programmes, it appears that the target audience only consists of convicts released from serving probationary sentences. However, individuals are also subject to other types of responsibility for domestic or sexual violence, so they are not obliged to undergo such programmes. There is also a *problem of the insufficient number of specialists working in such programmes*.

Article 17 – Participation of the private sector and the media

1) current implementation status. On 10 September 2021, the Verkhovna Rada of Ukraine passed draft law No. 3427, “On Amendments to the Law of Ukraine “On Advertising” Regarding Combating Gender-Based Discrimination”, which establishes criminal liability for gender-based sexism and discrimination in advertising. Amendments to the current Law of Ukraine “On Advertising” defined the concepts of “discriminatory advertising” and “gender-based discriminatory advertising,” strengthened responsibility for violations of advertising legislation, and strengthened the protection of the rights of advertising consumers. According to Article 36 of the Law of Ukraine “On Media”, it is prohibited in Ukraine to disseminate in the media and on video-sharing platforms statements

⁴⁴ Response of the National Social Service to the request filed by the Ukrainian Women Lawyers Association “JurFem”.

⁴⁵ URL: <https://zakon.rada.gov.ua/laws/show/z0270-19#Text>

inciting discrimination or oppression against individuals and groups of individuals based on their ethnic and social origin, citizenship, race, religion and beliefs, age, sex, sexual orientation, gender identity, disability or other grounds, as well as pornographic materials, etc.

2) Identified implementation issues. The new law on media regulation *does not contain provisions on gender-sensitive communication about violence incidents*. However, the relevance of such communication today, in war conditions, and the growing number of conflict-related sexual violence, is very high. The Ukrainian journalist's Code of Ethics *does not contain provisions on gender-sensitive communication of violence or a ban on hate speech*.

Most companies in Ukraine do not have policies to prevent and combat gender-based violence, including sexual harassment⁴⁶. After all, *such an obligation is not stipulated at the legislative level*.

CHAPTER IV. Protection and Support

Article 18 – General obligations

1) Current implementation status.

Since the beginning of full-scale Russian aggression, the number of Ukrainians abroad has increased significantly. Thus, almost 8 million people left Ukraine, and about half of them entered the EU. 3.96 million people who left Ukraine because of the war have temporary protection status in the European Union countries. According to various studies, 90% of those who left the country are women and children. UNICEF reported that 4.3 million children – more than half of the country's approximately 7.5 million child population – had been displaced a month after Russia's invasion of Ukraine.

2) Identified implementation issues. Currently, *there are no statistics on the number of Ukrainian citizens living abroad who suffer from gender-based violence*. It should be taken into account that 90 to 95% of gender-based violence victims are usually women. According to OSCE data, seven out of ten Ukrainian women aged 15 and more have experienced psychological, physical or sexual violence during their lifetime committed by a partner or a person other than a partner. At least three out of ten Ukrainian women have experienced such violence during the past year. Therefore, based on the number of Ukrainian citizens abroad and average indicators of the incidence of violence among the Ukrainian population, it can be assumed that every year, about 2 million Ukrainian citizens abroad experience or are at risk of experiencing gender-based, in particular, domestic violence. This figure will only grow due to continued Russia's aggression against Ukraine.⁴⁷

While victims of gender-based, and in particular, domestic violence, who are in Ukraine may use protection mechanisms and remedies provided by these regulations, Ukrainians abroad *do not have such an opportunity*. Even when the host country has mechanisms to ensure protection and access to justice for victims of domestic violence, citizens of Ukraine often *cannot use them independently* for various reasons, in particular, due to lack of proper legal knowledge, lack of language skills, threats from the perpetrator, etc. Due to all such factors, citizens of Ukraine who stay abroad and suffer from gender-based violence, and in particular domestic violence, may be especially vulnerable and need additional protection. To prevent this problem, a draft law was prepared in Ukraine on amendments to the legislation on strengthening the national response mechanism to domestic

⁴⁶ URL: https://ukraine.unfpa.org/sites/default/files/pub-pdf/Gender_brochure_200x200_16_01_19_0.pdf

⁴⁷ URL: <https://life.pravda.com.ua/society/2019/11/28/239102/>

and gender-based violence against Ukrainian citizens abroad by assigning it to the powers of foreign diplomatic institutions of Ukraine in the field of preventing and combating domestic violence. However, as of August 2023, such a draft law has not been considered in the Verkhovna Rada of Ukraine.

Article 19 – Information

1) Current implementation status. The authority to inform the population of combating gender-based violence is vested in the Ministry of Social Policy, the National Social Service, the Ministry of Internal Affairs, the National Police, the Ministry of Education and Science, the Ministry of Health, the Ministry of Justice, the State Security Agency (upon consent), the Prosecutor General’s Office of Ukraine (upon consent), Legal Aid Coordination Centre, the Council of Ministers of the Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol City State Administrations, and local governments.

Most websites of local governments and state oblast administrations contain information in the “social/family policy” sections, social policy departments about hotlines one may contact for help in case of domestic violence, as well as addresses of centres, shelters, and background information about domestic violence. The language of the documents is Ukrainian.

State authorities and local governments conduct the “16 Days Against Violence” social event to draw public attention to the problems of domestic violence and human trafficking, as well as to stimulate the functioning of state institutions and public associations to consolidate efforts in the field of human rights protection, in particular, for individuals suffering from domestic violence. The event takes place annually from 25 November to 10 December. Information on the event is shared on the official websites of the relevant authorities.

In May 2023, the Ministry of Justice of Ukraine, together with the system of free legal aid (FLA) and PlusOne communication agency, launched an information campaign on helping victims of domestic violence and sexual violence during the war.⁴⁸

2) Identified implementation issues. In Ukraine, issues of protecting one’s rights in cases of domestic violence and gender-based violence *are still insufficiently covered at the national and regional levels.*⁴⁹ Still, most information campaigns to raise awareness on combating domestic and gender-based violence are actively carried out by the public sector. There are actually no communication campaigns on preventing and combating sexual violence.

Thus, the Public Alliance “Political Action of Women,” with support from the Organisation for Strategic Communication CommsHub Ukraine, developed an information campaign to combat violence against women “Free. Strong. Invincible”. During March 2023, the NGO will present a series of information products to be posted on various social networks.⁵⁰

⁴⁸URL:

https://www.youtube.com/watch?v=x9OclqGBVmA&embeds_referring_euri=https%3A%2F%2Fhromadske.ua%2F&embeds_referring_origin=https%3A%2F%2Fhromadske.ua&source_ve_path=MjM4NTE&feature=emb_title

⁴⁹URL:

<https://legalaid.gov.ua/novyny/postrazhdali-vid-seksualnogo-nasylstva-pid-chas-vijny-ta-domashnogo-nasylstva-mozhut-otrymaty-bezoplatnu-pravovu-dopomogu-vid-derzhavy/>

⁵⁰URL:

https://galinfo.com.ua/news/vilni_sylni_nezlamni_informatsiyna_kampaniya_z_protvdii_nasylstva_nad_zhinka_my_394967.html

On 17 March 2023, the team of the “Information and Educational Project for Preventing Domestic Violence “I know. I Involve. I Influence”, assisted by social work entities in the field of preventing and combating domestic violence, conducted five awareness-raising campaigns on the prevention of domestic violence in Vinnytsia.⁵¹

On International Women’s Human Rights Defenders Day (29 November), the Ukrainian Women Lawyers Association “JurFem” launched an awareness-raising campaign dedicated to harassment in public transport. Informational posters saying, “It’s just a joke, hugs, touch. Report sexual harassment. Let’s stop it together!” appeared at six stations of Kyiv underground (“Lev Tolstoi Square,” “Pecherska,” “Lukianivska,” “Zoloti Vorota,” “Druzhby Narodiv,” and “Palats Sportu”). The poster also contains information about the “JurFem: Support” legal support line and a QR code with a link to a booklet for victims of sexual harassment in public transport and witnesses thereof. It describes what harassment is, how it may be manifested, and what victims and witnesses should do.

Article 20 – General support services

1) Current implementation status. A person who has suffered from domestic, sexual, or gender-based violence can contact:

- Medical facilities (emergency medical aid — 103) to receive medical aid and document signs of what has happened.
- Social service centres for families, children and youth. These are specialised institutions providing social services to families, children and youth in difficult life circumstances and in need of external assistance, including as a result of domestic or sexual violence. Persons who have suffered from domestic violence or have witnessed it can apply to social institutions for psychological help. During telephone or online appeals, employees of social service centres for families, children and youth (psychologists and social workers) provide the following types of consultations: psychological (crisis, scheduled, supportive, preventive); informative (regarding available services, referral, etc.); on social support issues. Social service centres for families, children, and youth refer adult victims to the Shelter for victims of domestic violence and/or gender-based violence.
- Children’s services. If there are children in the family, they either suffer from violence or witness it. The relevant service will protect the rights of children.
- FLA centres: protection; representation of persons entitled to free secondary legal aid in courts, other state authorities, and local governments, as well as in relations with other persons; drawing up procedural documents.

2) Identified implementation issues. The state does not ensure that a person who has suffered from domestic, sexual or gender-based violence receives such services as financial assistance, education, training and assistance in finding a job.

Article 21 – Assistance in individual/collective complaints

1) Current implementation status. The powers of individuals/entities that are taking measures in the field of preventing and combating domestic violence (oblast and local state administrations, local councils, units of the National Police of Ukraine, guardianship and custody bodies, children’s services, etc.) include informing the survivors of their rights,

⁵¹URL:

<https://sfero.org.ua/proekty/u-vinnytsi-provedeno-5-informatsijnyh-kampanij-po-zapobigannju-domashnomu-na-sylstvu/>

activities and social services they can take advantage of. Therefore, information on protection mechanisms and types of assistance that may be used by victims is published on the official websites of the Oblast State Administration.

The state also provides free legal advice at legal aid centres, legal aid offices or remotely (by phone or online). Victims of domestic or gender-based violence are entitled to free secondary legal aid in accordance with Article 14 of the Law of Ukraine, “On Free Legal Aid.”

2) Implementation issues found. National legislation *does not provide for the right of victims of sexual violence to free secondary legal aid.* However, such a right should be ensured for victims to improve their legal protection and effective conduct of criminal proceedings.

Article 22 – Specialist support services

1) Current implementation status. A network of specialised support services for survivors of domestic violence and/or gender-based violence has been created and operates in Ukraine. It includes mobile teams of social and psychological assistance; shelters providing 24-hour stay (up to 90 days); daytime social and psychological assistance centres (with crisis rooms providing 24-hour stay (up to 10 days); specialised primary social and psychological counselling services for persons who suffered from domestic violence and/or gender-based violence; regional and local “hotlines” on preventing and combating domestic violence, gender-based violence and violence against children; other facilities and institutions aimed at providing assistance to survivors (social apartments, social and psychological assistance centres, resource centre for conciliation and correctional and restorative programmes, points of emergency anonymous medical and psychological aid for individuals who suffered from domestic violence).

Today, there are 820 specialist services in Ukraine that provide assistance to survivors of domestic violence. In particular, 46 shelters, 55 crisis rooms, 46 day centres, 76 specialised primary counselling services, and 558 mobile teams (8 more teams were created in June).⁵² One can obtain comprehensive legal and psychological counselling, get temporary accommodation and get other social assistance in shelters and crisis rooms.

Mobile teams of social and psychological aid currently operate in 22 regions of Ukraine, except Luhansk and Kherson oblasts. Their specialists consult victims of domestic violence on legal, medical, psychological and other urgent issues.⁵³

2) Identified implementation issues. It is obvious that *the number of all types of specialised support services for victims of domestic violence and/or gender-based violence is insufficient in the regions of Ukraine* since there are different numbers of such services in different regions. Moreover, shelters usually operate in large cities and oblast centres, whereas the situation in smaller settlements of the country is worse⁵⁴.

⁵²URL:

https://nssu.gov.ua/storage/app/sites/22/Semeniuk/%D0%A1%D0%B5%D0%BC%D0%B5%D0%BD%D1%8E%D0%BA_01_06_2023/%D0%97%D0%B0%D0%B3%D0%B0%D0%BB%D1%8C%D0%BD%D0%B006/To%20the%20site_01_06_2023.pdf

⁵³URL:

https://ye.ua/dopomoga/59970_Chomu_postrazhdali_vid_domashnogo_nasilstva_movchat_i_de_shukati_dopo_mogi.html

⁵⁴ URL: <https://rubryka.com/article/pryhystky-dlya-zhinok-pid-chas-vijny/>

Article 23 – Shelters

1) Current implementation status. The operation of specialised support services, in particular, shelters, are regulated by the Standard Regulations on Shelters for Victims of Domestic Violence and/or Gender-Based Violence, approved by Resolution No. 655 of the Cabinet of Ministers of Ukraine of 22 August 2018.

According to the National Social Service, as of 1 June 2023, there are 46 shelters operating in Ukraine, including five shelters in Odesa oblast, four shelters in Lviv, Chernivtsi, and Kyiv oblasts, three shelters in Kyiv and Zakarpattia oblasts, two shelters in Vinnytsia, Volyn, Dnipropetrovsk, Zhytomyr, Ivano-Frankivsk, Poltava, Rivne, Kharkiv, Cherkasy, Khmelnytskyi oblasts, and one shelter in Zaporizhia and Mykolaiv oblasts. No shelters operate in Kirovohrad, Chernihiv, Sumy, Luhansk and Ternopil oblasts⁵⁵. This number is obviously not enough.

The final report of the Working Group of the Council of Europe on measures to combat violence against women and domestic violence (EG-TFV (2008)6) recommends ensuring in each region the availability of safe accommodation in special shelters for women — one place per family per 10,000 population. As of 1 January 2022, Ukraine has a recorded population of 41,167.3 million; that is, there should be 4,100 shelters in each region.

Following the monitoring of specialist support services, 14,925 people received specialised services during 2022, of which 345 people, including women with children, received shelter services⁵⁶.

2) Identified implementation issues. It is impossible to assess the implementation of the law on providing victims with access to shelters *because the website of the Ministry of Social Policy contains no information on the number of operating shelters for individuals who suffered from domestic violence and/or gender-based violence and the number of places in these shelters*⁵⁷. *There is no information on the number of places in such services. There is no information on the sources of funding for such services.*

There is an *insufficient number of shelters in all regions of Ukraine*. Moreover, in some regions, they do not operate at all. Moreover, shelters usually operate in large cities and oblast centres, whereas the situation in smaller settlements of the country is worse⁵⁸.

Due to the mass internal displacement of people, the influx of population and, hence, victims of violence, is observed in the western and central oblasts. Therefore, there is an urgent need to open more shelters. Due to the beginning of Russia's full-scale war against Ukraine, the government expanded the powers of specialised support services for victims of domestic violence and/or gender-based violence⁵⁹. Hence, shelters started accepting people fleeing the war. Taking into account such changes in the organisation of shelter functioning, in particular providing accommodation to IDPs, *a new challenge appeared, i.e., the possibility of providing victims of violence with shelters.*

Experts of La Strada-Ukraine, which ensures the operation of the Hotline for preventing domestic violence, human trafficking and gender discrimination, note that since the beginning of the full-scale war, several reports on the *impossibility of placing survivors in*

⁵⁵ URL:

https://nssu.gov.ua/storage/app/sites/22/Semeniuk/%D0%A1%D0%B5%D0%BC%D0%B5%D0%BD%D1%8E%D0%BA_01_06_2023/%D0%97%D0%B0%D0%B3%D0%B0%D0%BB%D1%8C%D0%BD%D0%B006/To%20the%20site_01_06_2023.pdf

⁵⁶ URL: <https://www.president.gov.ua/news/olena-zelenska-rozpovila-yak-vtilyuyetsya-genderna-rivnist-v-80133>

⁵⁷ URL:

<http://www.women.lviv.ua/wp-content/uploads/2023/07/Zvit-Stambulska-Konventsija-informatsiy-na-kampaniya-finalnyy-.pdf>

⁵⁸ URL: <https://rubryka.com/article/pryhystky-dlya-zhinok-pid-chas-vijny/>

⁵⁹ URL: <https://zakon.rada.gov.ua/laws/show/1372-2022-%D0%BF#Text>

shelters have been registered as shelters were occupied by displaced persons at the time.

⁶⁰Noteworthy, in some regions, the number of domestic violence cases increased, but the number of women willing to come to the Centres declined. This is explained by the current security, employment or stability issues.⁶¹

Article 24 – Telephone helplines

1) Current implementation status. In Ukraine, one may call a hotline and get: 1) informational, psychological and legal advice; 2) other aid.

Here is a list of available hotlines:

- government hotline for combating human trafficking, preventing and combating domestic and gender-based violence and violence against children — 15-47 (24/7, toll-free). In 2022, the 15-47 hotline was connected to a landline telephone connection for calls from abroad (+38 (044) 284-19-43) to provide aid to citizens staying outside Ukraine and requiring urgent information, consulting, etc.⁶².

- Single contact centre of the free legal aid system — 0 800 213 103.

- Police emergency call — 102. It is toll-free and available 24/7 in Ukraine.

- Department of Human Rights Compliance of the National Police of Ukraine — 044 254 75 88.

- Toll-free “JurFem: Support” legal support line: 68-145-55-90 (Telegram, Viber, Signal, etc.), 0 800 30 55 90, or by filling in an application on the website. Since 2022, Jurfem has provided free aid to victims of sexual violence and all types of gender discrimination⁶³.

- Since 1997, the La Strada-Ukraine NGO has maintained the operation of the only national hotline in Ukraine for preventing domestic violence, human trafficking, and gender discrimination.

- The National Police has also created a Chatbot of the Ministry of Internal Affairs #ДійПротиНасильства (act against violence) (VIBER, TELEGRAM).

- In 2022, with the assistance of Olena Zelenska and the Ministry of Internal Affairs, a “Hidden SOS Button” mobile app for women was introduced to protect the rights of domestic violence victims.⁶⁴

2) Identified implementation issues. Some of the issues of hotline operation include the impossibility of checking *whether a person followed the received recommendations, i.e., it is not always possible to receive timely feedback required to improve their work*⁶⁵.

In some regions, the number of calls to the Hotline for preventing domestic violence, human trafficking and gender discrimination has dropped. First of all, this concerns areas temporarily occupied by the Russian military, in particular, parts of Kherson and Zaporizhzhia oblasts. Their residents often do not have an opportunity to seek help. Fierce hostilities lasted or still last in other regions, such as Kyiv and Kharkiv oblasts at the relevant time, and now in Donetsk and Luhansk oblasts. Residents of such areas prioritise their own safety to survive or leave for safer territories; hence, domestic violence issues move into the background.

⁶⁰URL: <https://lexinform.com.ua/dumka-eksperta/vijna-ne-skasovuye-potrebu-protydiyaty-domashnomu-nasylstvu/>

⁶¹URL: <https://rubryka.com/article/pryhystky-dlya-zhinok-pid-chas-vijny/>

⁶² URL: <https://zakon.rada.gov.ua/laws/show/129-2022-%D0%BF#Text>

⁶³ URL: <https://jurfem.com.ua/jurfem-pidtrymka/>

⁶⁴URL: <https://ombudsman.gov.ua/report-2022/rivni-prava>

⁶⁵ URL: <https://platfor.ma/specials/garyacha-liniya/>

Another problem is *the lack of data on a single information resource or another resource about all available helplines*, which can make it difficult for citizens to access such services.

Article 25 – Support for victims of sexual violence

1) Current implementation status. Survivors of sexual violence may contact healthcare facilities to document facts of violence. Moreover, according to the legislation, they may receive appropriate social and psychological support in shelters for those who have suffered from domestic violence and/or gender-based violence.

2) Identified implementation issues. In Ukraine, *there are no specialised advisory centres to help survivors of sexual violence with medical examinations and forensic medical examinations, support in case of injuries and providing counselling to the survivors.*

Article 26 – Protection and support for child witnesses

1) Current implementation status. The Law of Ukraine, “On Preventing and Combating Domestic Violence,”⁶⁶ contains the concept of a “child witness.” Article 59 of the Criminal Procedure Code of Ukraine defines that if the victim is a minor, their legal representative shall be involved in the procedural action with them.

Article 13 (part 1, paragraph 2) of the Law of Ukraine “On Free Legal Aid” stipulates that children have the right to free secondary legal aid. The general support services for survivors include institutions that, inter alia, provide aid to children who suffered from domestic violence: social service centres for families, children and youth; shelters for children; centres for social and psychological rehabilitation of children; social rehabilitation centres (children’s settlements); social and psychological assistance centres; territorial social service centres (provision of social services); other facilities, institutions and organisations providing social services to affected persons.

Children have the right to personally seek the protection of their rights, freedoms and legitimate interests from guardianship and custody bodies, children’s services, centres for social services for families, children and youth, the call centre for preventing and combating gender-based violence and violence against children, and other authorised bodies.

2) Identified implementation issues. 20,000 victims in 2019 and 100,000 victims in 2020 applied for aid through the National Hotline for Children and Youth (0 800 500 225 and 116 111). In 2021, this figure reached 120,000⁶⁷.⁶⁸ 178,637 appeals for help were received in 2022⁶⁹. That is, *the number of complaints about cases of violence against children grows every year.*

The Supreme Court has even spoken recently regarding the identification of a child witness as a victim of domestic violence in case No. 753/19409/19 of 17 February 2021⁷⁰, where it emphasised the importance of court identification of children who witnessed violence as victims, even in the absence of such identification by the police. *However, there are obstacles in the legislation of Ukraine to the automatic acquisition of the status of a domestic violence victim by a child who witnessed domestic violence.* The criminal procedure

⁶⁶ URL: <https://zakon.rada.gov.ua/laws/show/2229-19>

⁶⁷ URL: <https://khpg.org/1608809322>

⁶⁸ URL:

<https://marieclaire.ua/uk/obshhestvo/natsionalna-garyacha-liniya-dlya-ditej-ta-molodi-la-strada-prezentuye-sotsi-alnij-proyekt-pogovori-zi-mnoyu>

⁶⁹ URL: <https://la-strada.org.ua/garyachi-liniyi>

⁷⁰ URL: <https://reyestr.court.gov.ua/Review/95066934>

legislation does not take into account the approach in terms of obtaining the status of a domestic violence victim by a child witnessing domestic violence without a corresponding application from the parent. The victim's rights and obligations must arise at the moment when such a person is recognised as a victim by the investigator or prosecutor in the presence of data that this person was harmed by a criminal offence or a socially dangerous act, regardless of their written consent. In this case, the child may be represented by individuals specified in Article 44 (part 2) of the Criminal Procedure Code of Ukraine, provided they are not the child's abusers.

There is a practical problem of not ensuring the participation of the legal representative and defender of a minor who is recognised as a victim in criminal proceedings.

In 2021, the Analytical Center JurFem monitored the case law on bringing perpetrators to administrative liability for domestic violence against a child (Article 173-2 of the Code of Ukraine on Administrative Offences)⁷¹. The following issues may be identified following the report analysis:

- Human rights organisations, as well as lawyers, have repeatedly stated *the improper performance of law enforcement agencies and courts regarding the identification of children who suffered from domestic violence in the events when police officers arrive following a call from a woman and do not mention children who were witnesses in the protocols as victims of domestic violence; hence, children's services do not report such cases.*
- *Police and courts identify child witnesses of domestic violence as victims in only 15% of cases.*
- *Neither the police nor courts usually take into account the child's age, which makes it difficult to identify a child as a juvenile or minor.*
- *The most common type of punishment for domestic violence against a child is a fine (70% of cases).* The minimum fine amount as a punishment for domestic violence is two and a half times less than the court fees during the consideration of the same case in court.
- *Violence is often repetitive, but this is also not always taken into account.*
- *Psychological examination for a child determining the damage caused by domestic violence is critically rare during case consideration.* In this context, the already mentioned problem arises that the courts usually do not refer perpetrators to correctional programmes. The perpetrator was sent to the family social services centre to undergo a programme for perpetrators (case No. 474/624/20) only in some isolated cases. In other cases, the perpetrator continued living with the child victim.
- *At the national level, there is no liability for officials in case of non-reporting domestic violence against a child.*

Article 27 – Reporting

1) Current implementation status. According to Article 477 of the Criminal Procedure Code of Ukraine, criminal offences provided for in Article 126-1 (domestic violence), Article 151-2 (forced marriage), Article 152 (part 1) (rape without aggravating circumstances), Article 153 (part 1) (sexual violence), Article 154 (compulsion to sexual intercourse), Article 161 (part 1) (violation of citizens equality based on their race, ethnic affiliation or religious beliefs without aggravating circumstances) of the Criminal Code of Ukraine shall be investigated following the rules of private criminal proceedings. Private

⁷¹URL: <https://jurfem.com.ua/zvit-za-rezultatamy-sudovoi-praktyky-nasylstvo-shodo-ditei/>

criminal proceedings mean proceedings that may be initiated by an investigator, interrogating officer or prosecutor only upon a victim's statement.

2) Identified implementation issues. The very belonging of domestic and sexual violence to private prosecution is quite debatable and causes reservations among many lawyers. In particular, *most crimes on this ground are concealed*, and law enforcement officers will never find out about 90% of the facts of tyranny in the family since it is better “to wash your dirty linen at home.”⁷²

Although witnesses of such acts of violence may report them to the competent authorities, *only the victim can file a criminal report*. Therefore, in cases where a person who directly suffered from violence does not submit a report to law enforcement agencies, no criminal proceedings are registered. In practice, victims may not contact law enforcement agencies for a number of reasons: intimidation, fear, etc. All this makes cases of gender-based violence more latent and invisible for response and timely and effective counteracting. *The possibility of transferring such cases from the category of private prosecution to the category of public prosecution cases should be considered.*

Article 28 – Reporting by professionals

1) Current implementation status. Under Order No. 612/679 of the Ministry of Internal Affairs of Ukraine and the Ministry of Health of Ukraine of 6 July 2016, “On the Procedure for Recording Facts of Reporting and Delivery to Health Facilities of Persons Due to their Bodily Injuries of a Criminal Nature and Informing Police Bodies and Units Thereof”, heads of health facilities ensure the completeness of records on reports and delivery of persons to healthcare facilities due to their bodily injuries of a criminal nature, to immediately inform police authorities and units of all the facts of reporting and delivery to health facilities of persons due to their bodily injuries of a criminal nature (gunshot, stab, cut, hacked, stab wounds), as well as to determine the employees responsible for such work.⁷³ A specialised data register is maintained for this purpose⁷⁴.

Medical examination of persons who suffered from domestic violence is carried out in accordance with the Procedure for Conducting and Documenting the Outcomes of Medical Examination of Persons Who Suffered from Domestic Violence or Persons Likely to Have Suffered from Domestic Violence and Providing them with Medical Aid (hereinafter the Procedure)⁷⁵. Thus, under paragraphs 3 and 4 of the Procedure, the authorised units of the National Police of Ukraine should be notified by telephone or email with subsequent written confirmation and in compliance with the legal regime of information with restricted access no later than one day, and in case of child injuries — children's services of the raion, district state administrations in the cities of Kyiv and Sevastopol, executive authorities of the cities, city district councils (if established), village councils, settlement councils of the consolidated territorial community.

2) Identified implementation issues. The shortcoming of the current system is that, *although medical professionals are obliged to report cases of domestic and sexual violence to the National Police, such cases are currently subject to private prosecution, and therefore, without a report from the victim, the state will not be able to bring the perpetrator to justice.*⁷⁶

⁷² URL: https://lb.ua/blog/iryna_suslova/483312_privatna_sprava.html

⁷³ URL: <https://zakon.rada.gov.ua/laws/show/z1051-16>

⁷⁴ URL: <https://zakon.rada.gov.ua/laws/show/z1051-16>

⁷⁵ <https://zakon.rada.gov.ua/laws/show/z0262-19#Text>

⁷⁶ URL: <https://jurfem.com.ua/dokumentyvannya-resultativ-medychnoho-obstezhuvannya/>

CHAPTER V. Substantive law

Article 29 – Civil lawsuits and remedies

1) Current implementation status. An important aspect for survivors of violent crimes is compensation for the harm caused to them by the wrongful act. According to national law, there are two possible ways to compensate for such damage: through criminal proceedings and civil proceedings.⁷⁷

Such compensation for damage can be collected only from the person who caused such damage. Ukrainian legislation does not provide that the state can compensate a person who suffered from gender-based violence for the damage caused to them if the perpetrator is unable to pay such compensation.

2) Identified implementation issues. According to the Law of Ukraine “On Court Fee”, in case of claims relating to non-pecuniary damage caused by a criminal offence, a court fee is payable. However, when a civil claim is filed as part of a criminal case, plaintiffs within the framework of criminal proceedings are exempted from paying court fees.

However, plaintiffs are not automatically exempted from paying the court fee for filing a claim for compensation for pecuniary damage caused by a criminal offence related to domestic violence, as well as a criminal offence against a person’s sexual freedom and sexual integrity.

That is, if an offence related to domestic violence, as well as a criminal offence against a person’s sexual freedom and sexual integrity, caused serious injury to health or mutilation, the victim shall be exempt from paying court fees subject to the availability of relevant medical documents. If the sexual or domestic violence did not cause serious injury or mutilation to the victim, the person shall not be exempt from paying the court fee. If, in addition to pecuniary damage, a person claims non-pecuniary damage, they will have to pay a court fee in the amount of 1% of the claimed amount.

Negative aspects of receiving compensation as part of criminal or civil proceedings include, inter alia, the duration of court consideration of claims for damage compensation and the difficulty of decision execution when the perpetrator who must compensate for the damage caused has no money. These aspects should be emphasised. However, for victims of criminal offences against sexual freedom and integrity, the inability to receive compensation shortly after experiencing violence can be a disproportionate burden, given the harm caused by such a crime and the vulnerable state of individuals, the need for urgent aid, which often requires significant financial costs.

Article 30 – Compensation

1) Current implementation status. There is *no mechanism for state compensation to victims of violent crimes in Ukraine*. Moreover, Ukraine ratified the Istanbul Convention with the reservation that Ukraine reserves the right not to apply the provisions of Article 30 (paragraph 2) of the Istanbul Convention on adequate state compensation to those who have sustained serious bodily injury or impairment of health.

An important aspect for survivors of violent crimes is compensation for the harm caused to them by the wrongful act. According to national law, there are two possible ways to compensate for such damage: through criminal proceedings and civil proceedings.⁷⁸

⁷⁷ URL: <https://jurfem.com.ua/vidshloduvannya-shkody-natsionalni-harantii/>

⁷⁸ URL: <https://jurfem.com.ua/vidshloduvannya-shkody-natsionalni-harantii/>

2) Identified implementation issues. The inability to receive compensation from the state for the damage caused by violence makes victims *face additional barriers when obtaining efficient protection and restoring their rights*. Even a court decision to find a person guilty and collect compensation may not guarantee the execution of such a decision and, accordingly, the receipt of compensation for the damage by the victim.

Currently, there are several draft laws registered regarding the creation of a mechanism to provide compensation to victims of violent crimes.

For instance, draft laws No. 3149 of 3 March 2020⁷⁹, No. 3150 of 3 March 2020⁸⁰, No. 3892 of 17 July 2020⁸¹, No. 3893 of 17 July 2020⁸², and No. 3894 of 17 July 2000⁸³ are aimed at introducing and implementing state compensation for victims of violent criminal offences.

Listed draft laws are systemically linked. Among them, the basic one is draft law No. 3892 — draft Law of Ukraine “On Compensation for Damage to Victims of Violent Criminal Offences.” Draft laws No. 3150 and No. 3894, “On Amendments to the Budget Code of Ukraine Regarding the Mechanism for Financial Compensation for Victims of Violent Criminal Offences,” are also similar. The focus will be mostly placed on the latter since it complements the basic draft law No. 3892. However, *as of August 2023, none of the draft laws was considered in the Verkhovna Rada of Ukraine*.

Article 31 - Custody, visitation rights and safety

1) Current implementation status. Article 244 of the Family Code of Ukraine specifies that a person of full age and legal capacity can be a guardian/custodian of a child with their consent. When appointing a guardian or custodian for a child, the guardianship and custody body shall take into account the individual’s personal qualities, their ability to raise a child, their attitude towards the child, as well as the child’s wish.

Family law takes into account the Istanbul Convention provision that a person who committed violence against women cannot be a guardian/custodian. Moreover, individuals married to a person who, according to family law, is not allowed to be an adoptive parent cannot be the child’s guardians/custodians. According to the same article of family law, in addition to the persons mentioned above, other individuals whose interests are in conflict with that of a child cannot be adoptive parents.

Article 22 (part 4) of the Law of Ukraine, “On Preventing and Combating Domestic Violence,” is a positive innovation in Ukrainian legislation. It provides that when the court and/or custody and guardianship body consider disputes concerning the role of a parent in the child’s upbringing, the child’s place of residence, removal of the child from the family, deprivation and restoration of parental rights, visitation privileges for the child’s mother or father who is deprived of parental rights, removal of the child from a person with whom the child is staying illegally or not based on the court judgement, the court must consider facts of domestic violence against the child or violence committed in their presence.

2) Identified implementation issues. Domestic violence against a child should be considered as one of the grounds for deprivation of parental rights. *As of today, according to the Family Code of Ukraine, domestic violence against a child is not a ground for deprivation of parental rights*.

⁷⁹ URL: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68286

⁸⁰ URL: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68287

⁸¹ URL: https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=69541

⁸² URL: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=69542

⁸³ URL: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=69543

Article 111 of the Family Code of Ukraine stipulates that the court shall take measures to reconcile the spouses unless it contradicts the moral principles of society. However, this approach creates situations when, for example, a victim of domestic violence applies to the court to end her marriage with the abuser, and the court does not grant permission for a divorce but sets a period for reconciliation, thereby putting the victim at risk of re-experiencing violence. Thus, in cases that contain a component of violence, mediation or reconciliation is not possible.⁸⁴

Article 32 – Civil consequences of forced marriages

1) Current implementation status. Family law of Ukraine establishes that marriage is based on the free will of a woman and a man, and coercion of a woman and a man into marriage is not allowed (Article 24 of the Family Code of Ukraine). A court declares a marriage invalid if it was registered without the free consent of the woman or the man (Article 40 of the Family Code of Ukraine). The legislation provides that a marriage declared invalid by a court shall not constitute a basis for the spouses' rights and obligations, as well as the rights and obligations established for spouses by other laws of Ukraine, for persons between whom such a marriage was registered (Article 45 of the Family Code of Ukraine).

2) Identified implementation issues. It is important to have in mind that a court fee in the amount of 0.4 of the minimum subsistence level for able-bodied persons shall be paid for filing a claim for declaring the marriage invalid (Article 4 (part 1, paragraph 2) of the Law of Ukraine "On Court Fee"). It means that a victim has a certain *financial burden* in the event of a lawsuit for declaring the marriage invalid, and therefore, this rule needs to be revised.

Article 33 – Psychological violence

1) Current implementation status. The criminal legislation of Ukraine criminalises psychological violence, i.e.:

1) intentional, systematic commission of psychological or economic violence against a spouse or ex-spouse or another person with whom the perpetrator is (was) in a family or close relationship, which leads to psychological suffering, health disorders, loss of working capacity, emotional dependence or deterioration of the victim's life quality (Article 126¹ of the Criminal Code of Ukraine);

2) a threat to kill if there was a reasonable cause to believe that this threat might be fulfilled (Article 129 of the Criminal Code of Ukraine);

3) driving a person to suicide or attempted suicide, which is the result of their cruel treatment, blackmail, systematic humiliation of their human dignity or systematic illegal coercion to actions contrary to their will, inclination to suicide, as well as other actions that contribute to suicide (Article 120 of the Criminal Code of Ukraine).

According to Article 173-2 of the Code of Ukraine on Administrative Offences, committing domestic violence, gender-based violence, i.e., intentionally committing any actions (actions or omissions) of a psychological or economic nature (application of violence that did not cause bodily harm, threats, insults or stalking, deprivation of housing, food, clothing, other property or funds to which the victim has a legal right, etc.), which may lead or possibly lead to the damage to the victim's mental health, shall be punished in accordance with the legislation on administrative offences.

2) Identified implementation issues. Psychological violence is the most common manifestation of domestic violence towards women and serves as the basis for other types of

⁸⁴ URL: <https://jurfem.com.ua/chomu-potribna-stambulska-analitychnyi/>

violence, i.e. physical, economic and sexual. *High latency and lack of awareness by the victims about the content of this act is a special feature of psychological violence.* Moreover, psychological violence is the most difficult to prove since it may happen at any time and in the presence of only the perpetrator and the victim. At the same time, the consequences of psychological violence are no less serious, and in some cases even more serious, than those of other types of violence⁸⁵.

Article 34 - Stalking

1) Current implementation status. According to Article 1 (paragraph 14) of the Law of Ukraine “On Preventing and Combating Domestic Violence”, stalking is defined as one of the forms of psychological violence, which significantly narrows the possibilities of bringing perpetrators to justice and protecting the rights of victims. In fact, the national legislation provides for no liability for stalking in terms of the Istanbul Convention.

2) Identified implementation issues. The national criminal legislation of Ukraine *does not criminalise intentional conduct, consisting in repeated threatening behaviour aimed at another person, which makes them fear for their safety, i.e., stalking.*

The draft Law of Ukraine, “On Amendments to the Criminal and Criminal Procedure Codes of Ukraine Regarding Establishing Liability for Stalking,” has been prepared⁸⁶. According to the draft law, the wording of Article 146-2 (part 1), which is proposed to be added to the Criminal Code of Ukraine, provides for the criminalisation of an act consisting, in particular, in unlawful shadowing of a person and forcing communication on them. At the same time, this Article of the draft law does not reveal the content of specified concepts, does not define their special features, and does not provide other characteristics of such actions, which could help distinguish stalking from related crimes.

Article 35 – Physical violence

1) Current implementation status. According to the national legislation, the following types of physical violence are criminalised:

- 1) intended grievous bodily injury (Article 121 of the Criminal Code of Ukraine);
- 2) intended bodily injury of medium gravity (Article 122 of the Criminal Code of Ukraine);
- 3) intended minor bodily injury (Article 125 of the Criminal Code of Ukraine);
- 4) intended minor bodily injury that caused a short-term health disorder or insignificant loss of working capability (Article 125 of the Criminal Code of Ukraine);
- 5) battery and torture (Article 126 of the Criminal Code of Ukraine);
- 6) systematic commission of physical violence against a spouse or ex-spouse or another person with whom the perpetrator is (was) in a family or close relationship, which leads to psychological suffering, health disorders, and loss of working capacity (Article 126⁻¹ of the Criminal Code of Ukraine);
- 7) torture (Article 127 of the Criminal Code of Ukraine).

According to Article 173-2 of the Code of Ukraine on Administrative Offences, committing domestic violence and/or gender-based violence, i.e., the intentional committing of any acts (acts or omissions) of a physical nature (use of violence that did not cause bodily

⁸⁵URL: https://mubip.edu.ua/sites/default/files/u145/dis_medvedska.pdf

⁸⁶URL:

<https://nazk.gov.ua/uk/documents/vysnovok-antykoruptsijnovi-ekspertyzy-proyektu-zakonu-ukrayiny-pro-vnesennya-zmin-do-kryminalnogo-ta-kryminalnogo-protseusalnogo-kodeksiv-ukrayiny-shhodo-vstanovlennya-vidpovidalnosti-za-peresliduvann/>

injury), which resulted or could result in the damage to the physical health of the victim shall be punished in accordance with the legislation on administrative offences.

2) Identified implementation issues. Article 126-1 of the Criminal Code of Ukraine contains no remark that would provide clarification of the phrase “systematic commission of physical, psychological or economic violence,” which leads to various questions regarding the qualification of the act under Article 126 -1 of the Criminal Code of Ukraine in the context of its “systematic nature” when applying this rule⁸⁷.

In particular, the following questions arise when applying Article 126-1 of the Criminal Code of Ukraine:

how many cases of violence must be recorded to assert systematic domestic violence in the meaning of Article 126-1 of the Code?

in what way should cases of violence be recorded in order to determine the act as systematic?

in what period of time should such cases of violence be committed to qualify the action as systematic domestic violence?

are the following cases of violence, which took place after a criminal offence, the information about which is entered in the Unified Register of Pre-trial Investigations following a criminal offence under Article 126-1 of the Code, taken into account?

are previous cases of bringing a person to administrative liability for some of the committed acts of violence taken into account in the context of “systematic nature” to qualify the act under Article 126-1 of the Code?

In practice, it has been established that the “systematic nature” in the provision of Article 126-1 of the Criminal Code of Ukraine requires a legal explanation⁸⁸.

It is worth noting that the lack of a unified approach to understanding the concept of the “systematic nature” of domestic violence leads to *the ineffective application of Article 126-1 of the Code*, which was specially designed to criminalise repeated domestic violence that consists of separate episodes, but in its totality is one ongoing criminal offence.

In practice, the lack of systematic interpretation of Article 126-1 of the Criminal Code of Ukraine leads to *the court’s different qualifications of actions committed by a person who, when committing domestic violence, causes minor bodily injuries to the victim*.

Furthermore, *in practice, there are difficulties in understanding a category of the “crime related to domestic violence”*⁸⁹. This concept is new for national criminal legislation and is broader than the concept of “domestic violence” interpreted in Article 126-1 of the Criminal Code. It may include not only the commission of such crime but also other socially dangerous acts that have signs of domestic violence.

At the same time, the national legislation prescribes liability for gender-based violence in the same article as domestic violence. However, given that the nature of domestic violence and gender-based violence are different both from the objective perspective and in terms of their subject and are governed by different legal regulations, it is advisable to separate the liability for gender-based violence into a new independent norm.

Article 36 – Sexual violence, including rape

1) Current implementation status. National legislation criminalises:

⁸⁷URL: <https://jurfem.com.ua/systematychnist-pry-domashnyomu-nasylstvu/>

⁸⁸ URL: <http://journal-app.uzhnu.edu.ua/article/view/267668>

⁸⁹URL: <https://lexinform.com.ua/sudova-praktyka/vyznannya-sudom-zlochynu-takym-shho-pov-vazanyj-z-domashnim-nasylstvom-potrebuye-vidobrazhennyam-tsiyeyi-obstavyny-u-formulyuvanni-obvynuvachennya/>

1) Committing sexual acts related to vaginal, anal, or oral penetration of another person's body using genitalia or any other object without the victim's voluntary consent (rape) (Article 152 of the Criminal Code of Ukraine).

2) Rape, where it was committed by a person who previously committed any of the offences provided for by Articles 153 to 155 of the Criminal Code of Ukraine or committing such acts against a spouse or ex-spouse or another person with whom the perpetrator is (was) in a family or close relationship, or in respect of a person in connection with their performance of an official, professional or public duty, or in respect of a woman who was known to the perpetrator to be pregnant (Article 152 of the Criminal Code of Ukraine).

3) Committing sexual acts not related to the penetration of another person's body without the victim's voluntary consent (sexual violence) (Article 153 of the Criminal Code of Ukraine).

4) Sexual violence, where it was committed by a person who previously committed any of the offences provided for by Articles 152, 154 and 155 of the Criminal Code of Ukraine or committing such acts against a spouse or ex-spouse or another person with whom the perpetrator is (was) in a family or close relationship, or in respect of a person in connection with their performance of an official, professional or public duty, or in respect of a woman who was known to the perpetrator to be pregnant (Article 153 of the Criminal Code of Ukraine).

5) Coercing a person to a sexual act with another person without their voluntary consent (Article 154 of the Criminal Code of Ukraine).

6) Committing by an adult of sexual acts related to vaginal, anal, or oral penetration of the body of another person under the age of sixteen, using genitalia, other body organ or part, or any other object (Article 155 of the Criminal Code of Ukraine).

7) Debauched actions committed against a person under 16 years of age (Article 156 of the Criminal Code of Ukraine) shall be punishable by restraint of liberty for a term of up to five years or deprivation of liberty for the same term.

8) An offer of a meeting made by a full-aged person, including using information and telecommunication systems or technologies, to a person who has not reached the age of sixteen, with the aim of committing any sexual acts or debauched acts against them, if at least one action aimed at ensuring the occurrence of such a meeting was taken after the offer (Article 156¹ of the Criminal Code of Ukraine).

According to national legislation, after reaching the age of sixteen, a person may give voluntary consent to commit sexual acts related to vaginal, anal, or oral penetration of another person's body using the genitals or any other object.

The note to Article 152 of the Criminal Code of Ukraine specifies that consent is considered voluntary if it is the result of the person's free will, taking into account the accompanying circumstances.

2) Identified implementation issues. Victims of sexual violence *do not immediately seek help and report the crime*. The investigation of such criminal offences is problematic, *as only about 50% of sexual violence cases end up in a trial*. Only 16 out of 31 recorded criminal offences of sexual violence under Article 153 of the Criminal Code came to trial for six months of 2022, which is the trend of previous years as well. Moreover, the criminal proceedings in our country are more focused on the accused, making sure that the procedure is followed in relation to them and not the victim.

Courts often exempt the accused in such crimes from punishment (by assigning a probation period). The standard approach to the investigation of sexual violence cases should be changed, in particular, to take into account that examinations cannot be decisive evidence since a significant part of the evidence is lost due to various reasons, including

physiological ones. This results in cases being closed. The interrogation of victims and minimising the traumatic impact on them should be ensured during the pre-trial investigation. In particular, using a video recording or taking testimony from the victim immediately at the court hearing.

Article 38 – Female genital mutilation

1) Current implementation status. According to national legislation, the following acts are criminalised:

1) genital mutilation combined with permanent loss of work capacity by at least one-third, or termination of pregnancy as intentional grievous bodily harm (Article 121 of the Criminal Code of Ukraine).

2) Implementation issues found. However, there is no criminal liability in Ukraine for:

a) removing, infibulating or otherwise mutilating, in whole or in part, the labia majora, labia minora or clitoris;

b) forcing a woman to undergo acts listed in sub-paragraph “a” or inducing her to do so;

c) inciting, forcing a girl to undergo acts listed in sub-paragraph “a” or inducing her to do so.

Genital mutilation is not qualified according to Article 121 of the Criminal Code of Ukraine.

Article 40 – Sexual harassment

1) Current implementation status. National legislation *does not provide for administrative or criminal liability for sexual harassment.*

However, the Law of Ukraine, “On Ensuring Equal Rights and Opportunities for Women and Men,” obliges employers to “take measures to prevent cases of sexual harassment.” Therefore, if sexual harassment occurs at work, an official complaint with the management must be filed. Harassment at work is punishable by reprimand or dismissal.

2) Identified implementation issues. Court verdicts in cases of sexual harassment at work are quite rare in Ukraine. In case of harassment at the workplace, the victim may, under Articles 1167 and 1168 of the Civil Code of Ukraine, file a lawsuit and demand compensation for non-pecuniary damage caused by the person’s unlawful acts. Moreover, the victim may contact the Verkhovna Rada Commissioner for Human Rights. However, as practice shows, such methods of protection are not effective.

Harassment in the form of coercing a person, without their voluntary consent, to sexual acts with another person is punishable under Article 154 of the Criminal Code of Ukraine. However, in practice, sexual harassment in public places, in particular in the underground, is often qualified under Article 296 (part 1) of the Criminal Code of Ukraine – “Hooliganism” without the aggravating circumstance of a gender-based criminal offence (Article 67 (part 1, paragraph 3) of the Criminal Code of Ukraine).⁹⁰ *Such qualification is erroneous* since Article 296 of the Criminal Code of Ukraine is aimed at protecting such an object of encroachment as public order or public safety and is not targeted at protecting sexual freedom. Therefore, all cases of sexual harassment must be qualified under Article 153 (“Sexual violence”) of the Criminal Code of Ukraine.

⁹⁰URL: <https://jurfem.com.ua/nehulihanstvo-sexualmi-domahannya-v-metro-kvalifikatsia/>

Draft Law No. 8329, “On Amendments to the Code of Ukraine on Administrative Offences Due to the Ratification of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (the Istanbul Convention), registered on 2 January 2023⁹¹ amends the term “sexual harassment” provided for in Article 1 of the Law of Ukraine “On Ensuring Equal Rights and Opportunities for Women and Men”, since according to the proposed wording, sexual harassment does not cause bodily injury. It is proposed to introduce an additional article to the Code of Ukraine on Administrative Offences, which establishes administrative liability for sexual harassment.

Draft Law No. 9340 “On Amendments to the Disciplinary Statute of the National Police of Ukraine Regarding the Settlement of the Issue of Preventing Cases of Gender-Based Discrimination and Sexual Harassment on the Workplace” of 29 May 2023⁹². Hence, the draft law proposes to make changes to the legislation, which oblige police officers not to allow discrimination, including based on gender, or sexual harassment, and the manager — to organise official activities of their subordinates with strict adherence to the principle of ensuring equal rights and opportunities for women and men. Specific features of the establishment of a disciplinary committee, which conducts an internal investigation related to discrimination on the grounds of gender-based discrimination or sexual harassment, are stipulated separately, in particular, the appointment of an equal number of representatives of both sexes to the committee.

There is also a registered Draft Law No. 9099, “On Amendments to the Law of Ukraine “On the Disciplinary Statute of the Civil Protection Service,” Regarding Ensuring Equal Rights and Opportunities for Women and Men Serving in the Civil Security Service, as well as Preventing and Combating Discrimination and Sexual Harassment” of 13 March 2023⁹³. The draft law proposes to classify as violations of official discipline the breach of ethical norms, standards of ethical behaviour and integrity, provided for by legislative and other legal regulations, which led to the undermining of the authority of the civil security service; as well as committing discrimination and/or sexual harassment.

As of August 2023, none of the above-mentioned draft laws have been considered by the Verkhovna Rada of Ukraine.

Article 43 – Application of criminal offences

1) Current implementation status. According to the norms of national criminal legislation and legislation on administrative offences, the liability for offences established under this Convention arises regardless of the nature of the relationship between the victim and the perpetrator.

2) Identified implementation issues. When determining punishment for perpetrators in cases of domestic violence (Article 126-1 of the Criminal Code of Ukraine), the courts most often impose community service and imprisonment. The court imposes community service even when the perpetrator was previously convicted, and there is a high risk of repeated domestic violence. However, punishment in the form of community service for domestic violence is ineffective. In practice, there are several problems with the application of such punishment⁹⁴.

⁹¹ URL: <https://itd.rada.gov.ua/billInfo/Bills/Card/41104>

⁹² URL: <https://itd.rada.gov.ua/billInfo/Bills/Card/42010>

⁹³ URL: <https://itd.rada.gov.ua/billInfo/Bills/Card/41539>

⁹⁴ URL:

<https://minjust.gov.ua/news/ministry/olena-visotska-vikoristannya-gromadskih-robot-dlya-potreb-gromadi-zaraz-efektivno-ta-aktualno>

According to the “Probation Centre” State Institution, the following circumstances cause non-performance of community service and socially useful works: the offender’s evasion from serving an administrative punishment, illness, business trip, or another documented circumstance, which effectively deprives a person of the opportunity to serve the punishment imposed by the court. There are also cases when company, institution, and organisation owners refuse to accept requests to serve administrative fines due to the lack of funds to pay the perpetrators or jobs at such enterprises, which also prevents the timely execution of court judgments⁹⁵.

In 2019–2020, 70% of people on whom this type of penalty had been imposed served it. As we can see, *community service and socially useful works are not served in full. Moreover, the duty to ensure the execution of this type of penalty is vested in local governments, which is an additional burden on them.*

When bringing the perpetrator to administrative liability under Article 173-2 of the Code of Ukraine on Administrative Offences, one of the most common forms of administrative penalties is a fine.⁹⁶ In monetary terms, the stipulated fine amount in 2022 is UAH 170 to UAH 340 and UAH 340 to UAH 680 for the repeated commission of this offence. *The possibility of applying such low fines for domestic violence does not contribute to the fulfilment of the purpose of administrative penalties* provided for in Article 23 of the Code of Ukraine on Administrative Offences, namely, preventing new offences committed both by the perpetrator and by third parties. This is confirmed by the increased number of recorded cases of domestic violence in 2021. At the same time, a significant rise in the fine for committing the aforesaid administrative offence may harm the victim of violence. *This is because, quite often, the fine for such an offence is paid out of the family budget.*

The most common grounds for exemption from liability include the expiration of the statute of limitation, as well as the classification of domestic violence as a minor act. At the same time, when analysing court decisions made in the first half of 2022, it was found that in some cases, the expiration of the statute of limitation for administrative liability was associated with martial law in the state, which, according to the court, makes it impossible to consider the case within the time limits established by law. In cases of criminal prosecution of the perpetrator under Article 126-1 of the Criminal Code of Ukraine, when the accused is sentenced to imprisonment, *in most cases, the court releases them from serving punishment with probation. This may result in the punishment being formal and the perpetrator remaining free and even living with the victim.*

Almost 10% of cases on bringing the perpetrator to administrative liability (over 2,000 court decisions for five months of 2023) are closed, and the perpetrator is released from liability since the court considers them insignificant. Sometimes, it happens even in cases of repeated domestic violence or violence against a minor child. During the next case of violence, the case gets closed due to insignificance and is not taken into account by the police as qualifying for systematic domestic violence and bringing the perpetrator to criminal liability under Article 126-1 of the Criminal Code of Ukraine⁹⁷.

According to the research “Domestic Violence in Ukraine: Response in Conditions of War”⁹⁸ conducted by the Ukrainian Women Lawyers Association “JurFem”, it was established that in 8% of cases related to bringing perpetrators to administrative responsibility for administrative offences stipulated in Article 173-2 of the Code, the courts classified

⁹⁵ URL: <https://jurfem.com.ua/gromadski-ta-suspilno-korysni-roboty/>

⁹⁶URL: <https://jurfem.com.ua/domashne-nasylstvo-reahuvannya-v-umovakh-viyny/>

⁹⁷URL:

<http://www.women.lviv.ua/wp-content/uploads/2023/07/Zvit-Stambulska-Konventsija-informatsiy-na-kampaniya-finalnyy-.pdf>

⁹⁸ URL: <https://jurfem.com.ua/domashne-nasylstvo-reahuvannya-v-umovakh-viyny/>

domestic violence as an insignificant act, *limited themselves only to a verbal warning, and closed the proceedings in the case.*

Therefore, to ensure that perpetrators do not avoid responsibility for the violence committed, a draft law is proposed on amendments to the Code of Ukraine on Administrative Offences in terms of defining the impossibility of exemption from liability due to the insignificance of the act of domestic violence, gender-based violence, failure to comply with an emergency barring orders or failure to report about the place of temporary stay, which is regulated by Article 173-2 of the Code of Ukraine on Administrative Offences.

Article 46 – Aggravating circumstances

1) Current implementation status. Criminal law defines circumstances aggravating punishment in Article 67 of the Criminal Code of Ukraine, including:

- 1) repeated offence or recidivism;
- 2) the commission of an offence by a group of persons upon prior conspiracy (paragraph 2 or 3 of Article 28);
- 3) the commission of an offence based on racial, ethnic, or religious hatred and hostility;
- 4) grave consequences caused by the offence;
- 5) the commission of an offence against an elderly person, a person with a disability, a person in a helpless state, or a person suffering from a mental disorder, in particular mental retardation, a person with mental disabilities, as well as the commission of the criminal offence against a minor child or in the presence of a child;
- 6) the commission of a criminal offence against a spouse or ex-spouse or another person with whom the perpetrator is (was) in a family or close relationship;
- 7) the commission of an offence against a woman who, to the knowledge of the culprit, was pregnant;
- 8) the commission of a crime with particular cruelty;
- 9) the commission of an offence by a generally dangerous method, etc.

Such aggravating circumstances comply with Article 46 of the Istanbul Convention.

2) Identified implementation issues. Noteworthy, when imposing a punishment, the court cannot recognise other circumstances not specified in Article 67 (part 1) of the Criminal Code of Ukraine as aggravating. It is worth paying attention to the fact that martial law has been introduced in Ukraine. According to Article 67 (paragraph 11) of the Criminal Code of Ukraine, the commission of an offence by taking advantage of martial law shall be an aggravating circumstance. If domestic violence is punishable under Article 126-1 of the Criminal Code of Ukraine by community service for a period of one hundred and fifty to two hundred and forty hours, arrest for a period of up to six months, or restraint of liberty for a period of up to five years, or deprivation of liberty for a term of up to two years, then in the case of domestic violence while taking advantage of martial law, the court may impose a maximum punishment in the form of deprivation of liberty.

At the same time, the monitoring of case law for the first half of 2022 shows *that courts have never taken into account the above-mentioned aggravating circumstance when imposing punishment for a criminal offence provided for in Article 126-1 of the Criminal Code of Ukraine.*⁹⁹

Article 48 – Prohibition of mandatory alternative dispute resolution processes or sentencing

⁹⁹URL: <https://jurfem.com.ua/domashne-nasylstvo-reahuvannya-v-umovakh-viyny/>

1) Current implementation status. According to Article 469 (part 1) of the Criminal Procedure Code of Ukraine, a conciliation agreement in criminal proceedings regarding criminal offences *related to domestic violence* may be concluded only at the initiative of the victim, their representative or attorney. A conciliation agreement between the victim and the suspect or accused may be concluded in proceedings regarding the misdemeanour, minor crimes and private criminal proceedings. This provision shall apply only to offences *related to domestic violence and shall not apply to other forms of violence covered by the Istanbul Convention (sexual violence, gender-based violence, etc.)*.

2) Identified implementation issues. Draft Law No. 9093 “On Amendments to the Criminal Procedure Code of Ukraine Regarding the Conciliation Agreement and Private Criminal Proceedings Due to the Ratification of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (the Istanbul Convention)” of 13 March 2023 proposes to amend Articles 469 and 477 of the Criminal Procedure Code of Ukraine (hereinafter the Criminal Procedure Code of Ukraine), namely:

- to expand the list of case categories, where a conciliation agreement can be concluded only at the initiative of the victim, their representative or attorney, to cases regarding:

1) criminal offences against a person’s sexual freedom and sexual integrity (in compliance with Article 469 (part 3) of the Criminal Procedure Code of Ukraine);

2) criminal offences provided for in Article 134 (part 2) of the Criminal Code (coercion to an abortion), Article 134 (part 4) of the Criminal Code of Ukraine (coercion to sterilisation), Article 134 (part 5) of the Criminal Code of Ukraine (coercion to sterilisation, if it caused serious consequences), and Article 151-2 (forced marriage) of the Criminal Code of Ukraine. As of September 2023, the above-mentioned draft law has not been considered by the Verkhovna Rada of Ukraine.

CHAPTER VI.

Investigation, prosecution, procedural law and protective measures

Article 50 – Immediate response, prevention and protection

1) Current implementation status.

According to Article 15 of the Law of Ukraine “On Preventing and Combating Domestic Violence”, the cooperation between actors implementing measures to prevent and combat domestic violence includes mutual reporting, no later than within one day, of the identified facts of domestic violence. According to Article 11 of the same Law, while implementing measures in the field of preventing and combating domestic violence, educational institutions and establishments within the educational system shall, no later than within one day, report to the children’s services and/or authorised units of the National Police of Ukraine should facts of domestic violence against children be identified or respective statements or reports received. Under Article 14 of the Law of Ukraine “On Preventing and Combating Domestic Violence”, the remit of the general and designated victim support services is to inform local state administrations, local self-governments, and the National Police of Ukraine of the identified facts of domestic violence subject to the availability of voluntary informed consent from victims; where the violent act is committed against a child – the children’s services and authorised units of the National Police of Ukraine should be informed no later than within one day.

2) Identified implementation issues. Police officers may enter a person's home without a reasoned court decision in emergency cases related to the termination of domestic violence in case of immediate danger to the life or health of the victim. However, in practice, such a mechanism is used extremely rarely. There are cases when neighbours contact the National Police of Ukraine regarding a possible act of violence, and victims do not apply to law enforcement agencies to report a crime. As a result, National Police officers are brought to civil liability for damaged property. Violation of the inviolability of housing is also subject to criminal liability (Article 162 of the Criminal Code of Ukraine).

The POLINA police network for combating domestic violence has been operating since 2017. As of 2021, 86 mobile brigades are operating throughout Ukraine¹⁰⁰. These are mobile domestic violence response teams. Where there are no mobile teams, patrol policemen and community police officers respond to such cases. However, *the number of mobile brigades is insufficient*.

Article 51 – Risk assessment and risk management

1) Current implementation status. The legislation of Ukraine on preventing and combating domestic violence uses the concept of “risk assessment”. According to Article 21⁷ of the Law of Ukraine “On Ensuring Equal Rights and Opportunities for Women and Men”, the interaction between individuals/entities taking measures in the field of preventing and combating gender-based violence involves responding to facts of gender-based violence in compliance with the competence and taking into account the assessment of the risks threatening the victim.

The risk assessment is taken into account when employees of the National Police of Ukraine issue emergency barring orders (Article 25 of the Law of Ukraine “On Preventing and Combating Domestic Violence”) and when making a decision to issue a restraining order or to refuse to issue a restraining order (Article 26 of the Law of Ukraine “On Preventing and Combating Domestic Violence”).

The procedure for assessing the likelihood of continued or repeated domestic violence, the occurrence of serious or particularly serious consequences thereof, as well as the victim's death, in order to determine efficient response measures aimed at terminating such violence and preventing its repetition, is determined in accordance with the Domestic Violence Risk Assessment Procedure No. 369/180¹⁰¹.

2) Identified implementation issues. As of today, the concept of risk assessment is used only in cases related to domestic violence, namely when a court issues an emergency barring order or a restraining order as part of civil proceedings. However, the issue of risk assessment and the issuance of restraining orders as part of criminal proceedings, in particular those related to sexual violence, is not considered at all, and such practice is not applied.

Article 52 – Emergency barring orders

1) Current implementation status. According to Article 25 of the Law of Ukraine “On Preventing and Combating Domestic Violence”, authorised units of the National Police of Ukraine shall issue an emergency barring order against the perpetrator should there exist a direct threat to the victim's life and health in order to stop domestic violence, prevent its continuation or recurrence. Issuance of an emergency barring order is regulated by the

¹⁰⁰

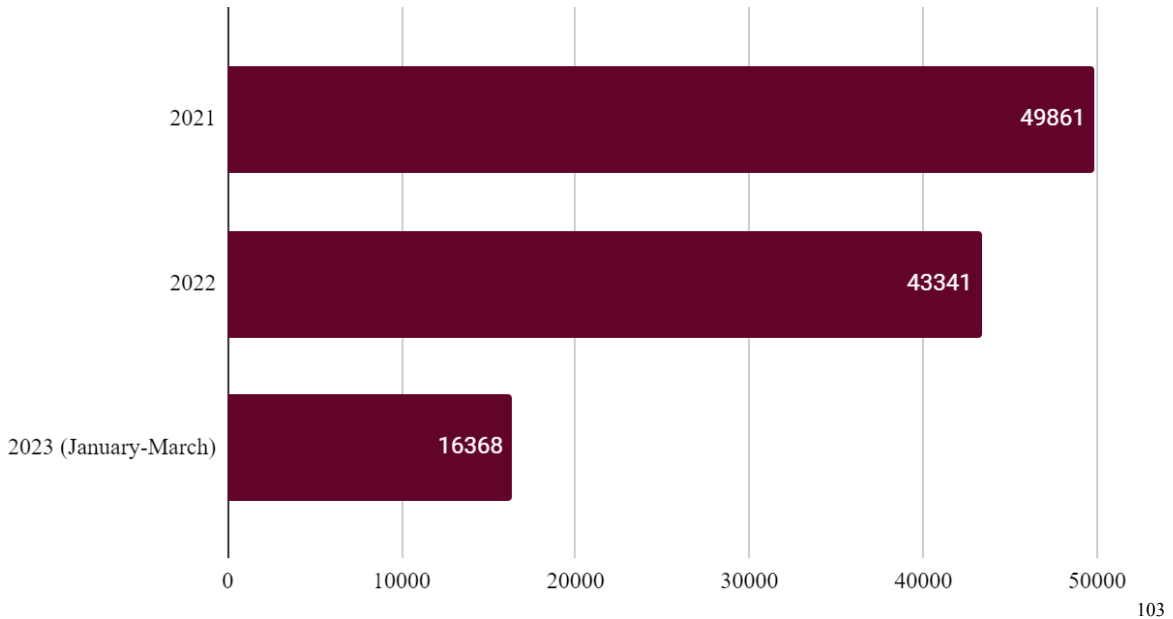
URL: <https://mvs.gov.ua/uk/press-center/news/podolannya-domasnyogo-nasilstva-ce-prioritetne-zavdannya-dlya-mvs-katarina-pavlicenko>

¹⁰¹ URL: <https://zakon.rada.gov.ua/laws/show/z0333-19#Text>

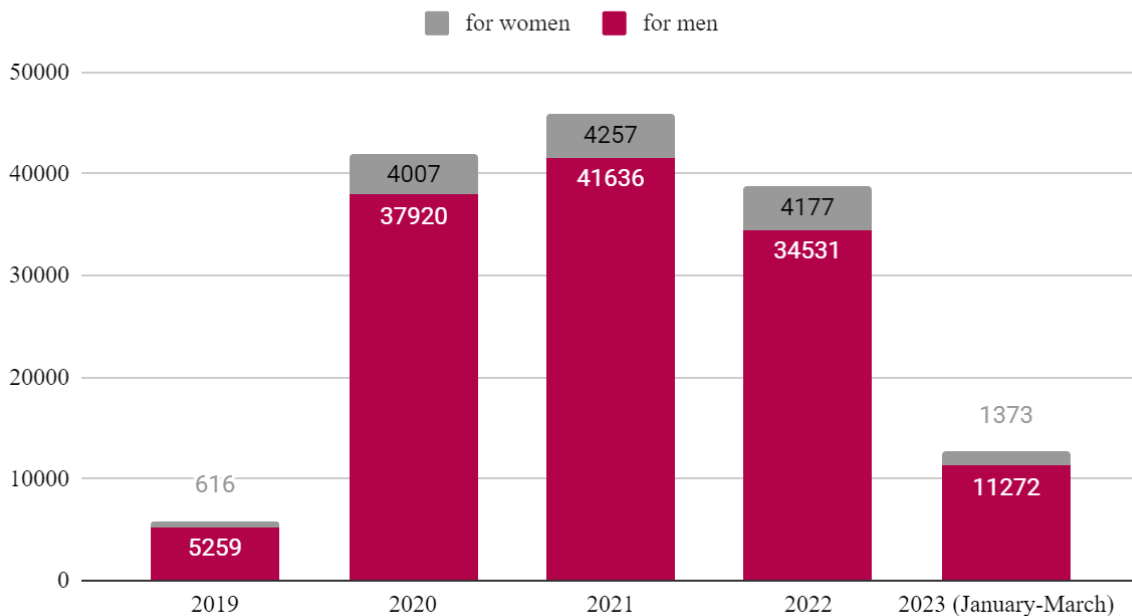
Procedure for Issuing Emergency Barring Orders Against Perpetrators by Authorised Units of the National Police of Ukraine, No. 654, approved by the Ministry of Internal Affairs of Ukraine on 1 August 2018¹⁰².

An emergency barring order is issued at the victim’s request, as well as by an employee of the authorised unit of the National Police of Ukraine at their own initiative following a risk assessment.

Number of barring orders issued



Number of barring orders issued



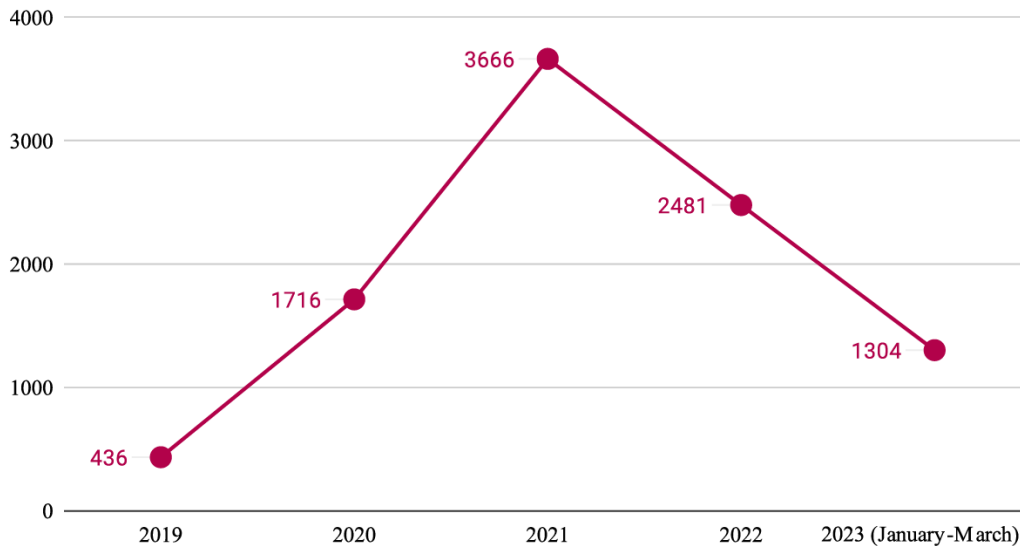
¹⁰²URL: <https://zakon.rada.gov.ua/laws/show/z0965-18#n14>

¹⁰³ Response of the National Police of Ukraine to the request filed by the Ukrainian Women Lawyers Association “JurFem”.

A person subject to an emergency barring order may appeal it to a court according to the general procedure stipulated for appealing decisions, acts or omissions on the part of employees of authorised units of the National Police of Ukraine.

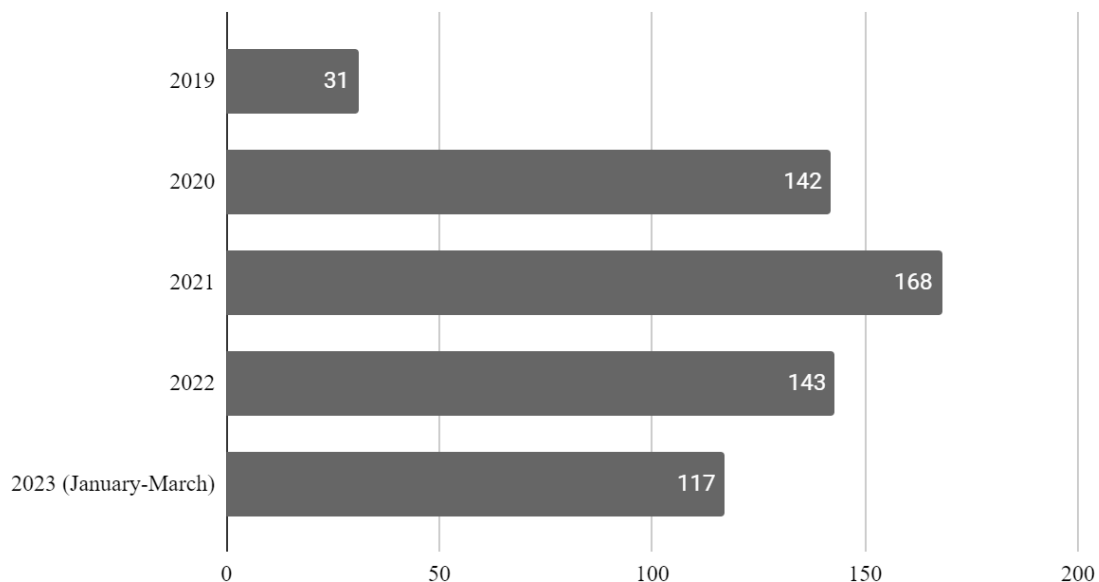
The number of administrative offences under Article 173-2 of the Code of Ukraine on Administrative Offences for failure to comply with an emergency barring order against the perpetrator¹⁰⁴:

Number of Offences



The number of administrative offences under Article 173-2 of the Code of Ukraine on Administrative Offences for failure to inform the place of temporary stay¹⁰⁵:

Number of Offences



¹⁰⁴ Response of the National Police of Ukraine to the request filed by the Ukrainian Women Lawyers Association “JurFem”.

¹⁰⁵ Response of the National Police of Ukraine to the request filed by the Ukrainian Women Lawyers Association “JurFem”.

2) Identified implementation issues. Draft law No. 8329, “On Amendments to the Code of Ukraine on Administrative Offences Due to the Ratification of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (the Istanbul Convention),” registered on 2 January 2023, proposes to grant police officers the right to consider administrative offence cases related to the failure of a person, subject to an emergency barring order, under which they must leave the place of common residence (stay) with the victim, to inform the authorised units of the National Police of Ukraine of the place of their temporary stay (Article 173-2 (part 2) of the Code of Ukraine on Administrative Offences), which will enable relieving the load on courts. As of August 2023, the above-mentioned draft law has not been considered by the Verkhovna Rada of Ukraine.

Article 53 – Restraining or protection orders

1) Current implementation status. According to Article 26 of the Law of Ukraine “On Preventing and Combating Domestic Violence”, the following individuals shall have the right to apply to the court for a restraining order against the perpetrator: a victim or their representative; where domestic violence is committed against a child – child’s parents or other legal representatives, relatives (grandmother, grandfather, adult sister or brother), stepmother or stepfather, custody and guardianship body; where domestic violence is committed against a legally incapable person – a guardian, custody and guardianship body.

A restraining order defines one or more measures of temporary restriction of the perpetrator’s rights or imposition of obligations on them, in particular, a ban on staying in the place of common residence (stay) with the victim; restriction of communication with the child victim; a ban on approaching, within a specified distance, a place of residence (stay), study, work, other places frequently visited by the victim, etc. The procedure for issuing a restraining order by the court is defined by the Civil Procedure Code of Ukraine.

2) Identified implementation issues. Despite the fact that the share of cases when the courts satisfied the application for the issuance of a restraining order is usually higher compared to those when the courts refused to issue it. *A tendency for the courts to decide to issue a restraining order in cases with evidence of bringing a person to administrative liability is observed.* On the other hand, in cases where there is no such evidence, the courts usually refused to issue such orders based on the reasoning that the very fact of contacting law enforcement agencies could not indicate the commission of domestic violence. However, the fact that the perpetrator has not been brought to justice cannot be a reason for refusing to issue a restraining order, provided there is other evidence confirming domestic violence.¹⁰⁶

In order for the restraining order to be effective, the national legislation of Ukraine establishes a 72-hour period for considering an application for a restraining order, which is intended to prevent likely manifestations of domestic violence and immediately protect the victim. When analysing court decisions, it was found that in 31.2% of cases, the 72-hour deadline was observed, and in 68.8% of cases, *this deadline was not observed.* Accordingly, victims do not receive timely protection from domestic violence and are, therefore, exposed to the danger threatening their lives.

A court decision is rarely passed on the day of the court session, and the victim cannot receive it in time. Yet the situation when children live with the mother, and the judge issues a restraining order only for a woman, while the perpetrator is allowed to manipulate the child, constitutes another issue.

¹⁰⁶URL: <https://jurfem.com.ua/domashne-nasylstvo-reahuvannya-v-umovakh-viyny/>

Article 54 – Investigations and evidence

1) Current implementation status. The procedural legislation establishes certain features of the investigation of crimes against a person's sexual freedom and sexual integrity. For instance, under Article 27 of the Criminal Procedure Code of Ukraine, the investigating judge or the court may decide to hold the entire court proceedings or a part thereof in camera only in cases of criminal offences against the sexual freedom and sexual integrity of a person. In criminal proceedings related to the crimes against a person's sexual freedom and sexual integrity, as well as crimes committed with the application of violence or threat thereof, simultaneous interrogation of two or more already interrogated persons to clarify the reasons for discrepancies in their testimony cannot be conducted with the participation of both the juvenile or minor witness or victim and the suspect (Article 224 of the Criminal Code of Ukraine).

2) Identified implementation issues. Victims of sexual violence, domestic violence and gender-based violence do not immediately seek help and talk about the crime committed.

Examinations in crimes of sexual violence often cannot show either bodily or genital injuries. Then, other important evidence is lost.¹⁰⁷ However, pre-trial investigation bodies can determine the conclusions of such examinations as key ones for the completion of the pre-trial investigation.

One of the issues in proving cases of sexual or domestic violence is that the court often takes into account the previous behaviour of the accused when imposing punishment in sexual violence cases¹⁰⁸. If the perpetrator is characterised positively and has not been convicted, the court usually does not impose a punishment of imprisonment.¹⁰⁹

During the pre-trial investigation of sexual violence, domestic violence and gender-based violence cases, victims should be interrogated with minimum traumatic impact on them.

Article 55 – Ex parte and ex officio proceedings

1) Current implementation status. According to Article 477 of the Criminal Procedure Code of Ukraine, criminal offences provided for in Article 126-1 (domestic violence), Article 151-2 (forced marriage), Article 152 (part 1) (rape without aggravating circumstances), Article 153 (part 1) (sexual violence), Article 154 (compulsion to sexual intercourse), Article 161 (part 1) (violation of citizen equality based on their race, ethnic affiliation or religious beliefs without aggravating circumstances) of the Criminal Code of Ukraine shall be investigated in the form of private criminal proceedings.

Private criminal proceedings mean proceedings that may be initiated by an investigator, interrogating officer or prosecutor only *upon a victim's statement*. The victim is entitled to submit to the investigator, interrogating officer, prosecutor, or other official of the body authorised to start a pre-trial investigation a report of the criminal offence during the limitation period for criminal prosecution for a certain criminal offence (Article 478 of the Criminal Procedure Code of Ukraine).

¹⁰⁷URL:

<https://graty.me/use-selo-diznalosya-yak-sprava-pro-grupove-z-%D2%91valtuvannya-nepovnolitno%D1%97-na-zakarpatti-zakinchilasya-umovnim-virokom-za-bilsh-myakoyu-statteyu/>

¹⁰⁸

URL: <https://tsn.ua/ukrayina/zgvaltuvannya-shkolyarki-na-zakarpatti-vsi-podrobici-rezonansnogo-zlochynu-i-reakciya-vladi-2294941.html>

¹⁰⁹ URL: <https://legalclinics.in.ua/consult/consultation-08-09-2021/>

2) Implementation issues found. The inclusion of such criminal offences in the list of proceedings investigated according to the rules of private criminal proceedings contradicts Article 55 of the Istanbul Convention.

In practice, a need to expand the list of case categories where a conciliation agreement may be concluded only at the initiative of the victim, their representative, or attorney is also problematic.

Draft Law No. 9093, “On Amendments to the Criminal Procedure Code of Ukraine Regarding the Conciliation Agreement and Private Criminal Proceedings Due to the Ratification of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (the Istanbul Convention)” of 13 March 2023,¹¹⁰ proposes to amend Articles 469 and 477 of the Criminal Procedure Code of Ukraine (hereinafter the Criminal Procedure Code of Ukraine) and to:

- expand the list of case categories where a conciliation agreement may be concluded only at the initiative of the victim, their representative, or attorney to cases regarding:

1) criminal offences against a person’s sexual freedom and sexual integrity (in compliance with Article 469 (part 3) of the Criminal Procedure Code of Ukraine);

2) criminal offences provided for in Article 134 (part 2) of the Criminal Code (coercion to an abortion), Article 134 (part 4) of the Criminal Code of Ukraine (coercion to sterilisation), Article 134 (part 5) of the Criminal Code of Ukraine (coercion to sterilisation, if it caused serious consequences), and Article 151-2 (forced marriage) of the Criminal Code of Ukraine;

- exclude from the list of articles subject to private proceedings those under Article 126-1 (domestic violence); Article 134 (parts 2, 4 and 5) (refers to forced abortion and sterilisation); Article 151-2 (forced marriage); Article 152 (part 1) (rape without aggravating circumstances); Article 153 (part 1) (sexual violence); Article 154 (compulsion to sexual intercourse).

As of August 2023, the above-mentioned draft law has not been considered by the Verkhovna Rada of Ukraine.

CHAPTER VII. Migration and asylum

Article 59 – Residence status

1) Implementation issues found. According to the migration legislation of Ukraine, *there are no legislative measures to ensure that survivors, whose residence status depends on the residence status of their spouse or partner, as defined by national legislation, are provided upon their application and due to particularly difficult circumstances, with an independent residence permit in the event of a divorce or breakup, regardless of the duration of the marriage or relationship.*

The migration legislation of Ukraine provides for no legislative measures to ensure that *victims of forced marriage who were taken to another country for the purpose of marriage and who, as a result, lost their status as persons legally staying in the country where they permanently resided, could restore this right.*

¹¹⁰URL: https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=75749

Article 60 – Gender-based asylum claims

1) Current implementation status. In 2018, 24 persons were recognised as refugees, 75 persons were recognised as individuals in need of additional protection; in 2019, 41 persons were recognised as refugees, 52 persons were recognised as individuals in need of additional protection; in 2020, 39 persons were recognised as refugees, 84 persons were recognised as individuals in need of additional protection; in 2021, 87 persons were recognised as refugees, 70 persons were recognised as individuals in need of additional protection; in 2022, 20 persons were recognised as refugees, 26 persons were recognised as individuals in need of additional protection; in 2023, 2 persons were recognised as refugees, 18 persons were recognised as individuals in need of additional protection.

Most people who were granted the status of refugees and individuals in need of additional protection were from the Syrian Arab Republic, Russia, and Afghanistan.

In 2018–2023, the Cabinet of Ministers of Ukraine did not adopt any resolutions on granting temporary protection to foreigners and stateless people.

2) Identified implementation issues. *According to the Ukrainian migration legislation, guarantees of refugee status only apply to a man or a woman, the marriage with whom is registered in the prescribed manner.* Therefore, it is necessary to provide guarantees ensuring that victims whose residence status depends on the residence status of their spouse or partner are granted an independent residence permit regardless of the duration of the marriage or relationship upon the dissolution of the marriage or relationship termination.

According to the migration legislation of Ukraine, gender-based violence against women is not recognised as a form of persecution within the meaning of Article 1A(2) of the 1951 Convention Relating to the Status of Refugees and as a form of grievous harm, which is the basis for additional (subsidiary) protection. It is, therefore, *necessary to stipulate the definition of gender-based violence as a form of persecution within the meaning of the 1951 Convention Relating to the Status of Refugees.* Moreover, *reception procedures should be developed, and the operation of support services for shelter seekers should be improved, providing asylum with account for the gender factor.*

The State Migration Service collects data on the number of decisions taken to recognise foreigners and stateless persons as refugees or individuals in need of additional protection without the breakdown by gender, age and grounds for such decisions. Accordingly, it creates difficulties in accounting and analysing data on shelter seekers by gender and their provision with comprehensive protection.

Article 61 – Non-refoulement

1) Implementation issues found. *According to the migration legislation of Ukraine, there are no legislative measures to ensure that victims of violence who are in need of protection, regardless of their status or residence, shall not be returned, under any circumstances, to any country where their life would be at risk or where they might be subjected to torture or inhuman or degrading treatment or punishment.*

Therefore, it is necessary to establish mechanisms to prevent the refoulement/deportation of persons to a country where there is a real threat to their life in the event of the state's refusal to satisfy an application for asylum.