

UDC 342.9:343.62

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Risk Assessment in Cases of Domestic Violence

Стаття присвячена питанню оцінки ризиків у справах про вчинення домашнього насильства. У статті розкрита поява засад проведення означеного аналізу в Україні та за кордоном. Автор детально аналізує національне законодавство України в означеній сфері, а також розкриває шляхи захисту потерпілих і свідків, від повторних випадків домашнього насильства, у тому числі, захисту від зростання небезпеки з боку незаконних дій агресора.

Ключові слова: оцінка ризиків, домашнє насильство, потерпілі, захист потерпілих від домашнього насильства, форма оцінки ризиків, поліцейський, правове регулювання оцінки ризиків, міжнародні стандарти оцінки ризиків домашнього насильства, правове регулювання, гендерно-обумовлене насильство.

Статья посвящена вопросу оценки рисков по делам о совершении домашнего насилия. В статье раскрыто появление основ проведения указанного анализа в Украине и за рубежом. Автор подробно анализирует национальное законодательство Украины в указанной сфере, а также раскрывает пути защиты потерпевших и свидетелей, от повторных случаев домашнего насилия, в том числе, защиты от роста опасности со стороны незаконных действий агрессора.

Ключевые слова: оценка рисков, домашнее насилие, потерпевшие, защита пострадавших от домашнего насилия, форма оценки рисков, полицейский, правовое регулирование оценки рисков, международные стандарты оценки рисков домашнего насилия, правовое регулирование, гендерно-обусловленное насилие.

The article is devoted to the issue of risk assessment in domestic violence cases. The article reveals the emergence of the principles of this analysis in Ukraine and abroad.

The article considers the international legal regulation of prevention and counteraction to domestic violence. The author analyzes in detail the national legislation of Ukraine in this area, and reveals ways to protect victims and witnesses from repeated cases of domestic violence, including protection against the growing danger associated with illegal actions of the aggressor.

The procedure for assessing the risks of domestic violence by police officers is considered separately, and attention is paid to the special powers of these officials when calculating the form of risks.

In the article, the author draws attention to the need for risk assessment through the prism of analyzing the causes of domestic violence. The causes of domestic violence include: the prevalence of stereotypes about the social role of women and men, the preference of one sex over another in terms of the ratio of physical strength; the prevailing impunity of perpetrators of domestic and gender-based violence and the prevalence of such phenomena; stereotypical perceptions of society about the privacy of domestic violence, the application of a model of violent behavior by children who have experienced domestic violence in any form or witnessed such violence.

the issue of preventing domestic violence is an extremely important issue. Ukraine has introduced a risk assessment procedure by implementing modern tools for the prevention of domestic violence. It is innovative that the police officer is empowered to determine the level (low, medium, high) at their own discretion after conducting a risk assessment of a specific case of domestic violence. This has significantly expanded the preventive powers of the police, and made it possible to apply special measures to combat domestic violence more effectively.

Keywords: risk assessment, domestic violence, victims, protection of victims from domestic violence, form of risk assessment, police officer, legal regulation of risk assessment, international standards for assessment of domestic violence risks, legal regulation, gender-based violence.

Addressing the problem. Today, no one doubts that the problem of domestic violence is very acute for any developed society, and needs urgent and effective solutions. Through adopting various international agreements, the international community has set standards for state, public, and organizational activities in the field of prevention, detection, response and combating domestic violence. In addition, each country is directly looking for ways to address domestic violence. For example, the Polish government has introduced the Blue Card procedure, and the Portuguese government has set up special police units to deal exclusively with domestic violence and to conduct proceedings in this category of cases. However, due to a number of factors, such as: myths and stereotypes related to domestic violence; psychological ties between the victim and the aggressor (identification syndrome with the aggressor); insufficient response by state law enforcement agencies to these offenses; imperfection of the legal system; lack of zero tolerance in society for any acts of violence within the family, the problem of domestic violence still remains unresolved.

Analysis of research and publications. The issues of preventing and detecting domestic violence, also other related crimes like child abuse, intimate partner violence, gender-based violence were analysed by such scientists as: Kateryna Levchenko, Iryna Banduka, Olena Dzafarova, Ludmilla Shevchenko, Maryana Kachynska, Ursula Novakovska, Yeva Bienkovska, Liz Kelly and many other. The risk assessment in cases of domestic violence has been studied in the works of such international and national scientists as Yuriy Kyzmenko, Barbara Blonska, Anatolii Baida, Olga Shapovalova, Maryna Legenka and others.

Previously unsolved problems. However, given the large scale of domestic violence (every third woman in the world has faced domestic violence), there is a reasonable need to assess the risks of the first manifestations of domestic violence.

Basic content

Nowadays all international society is paying sorrowful attention to preventing and detecting gender-based violence generally, and to domestic violence particularly. For example, we can see these principles in such international documents as: The Convention on the Elimination of All Forms of Discrimination Against Women [1]; The Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women [2];

Declaration of Elimination of Violence Against Women (1993) [3]; and especially The Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence [4]. That is why police and other law enforcement authorities of all signatory countries pay special attention to preventing and detecting domestic violence, especially for risk management in the mentioned cases.

The President of Ukraine, in compliance with the above international conditions, as well as the resolution of the United Nations General Assembly of September 25, 2015 №70/1 [5] global goals of sustainable development until 2030, issued Decree № 722/2019 of September 30, 2019 On the Sustainable Development Goals of Ukraine for the period 2030, where, among other goals, he noted the importance of ensuring gender equality, and empowerment of all women and girls [6]. As a result, preventing and combating gender-based violence in general and domestic violence in particular becomes even more important. It should be noted that domestic violence is one of the most acute social problems affecting both women and men, however, women and children are the most vulnerable.

According to current provisions of Ukrainian legislation, assessing the risks of domestic violence involves the probability of continuation or recurrence of domestic violence, the occurrence of severe or particularly severe consequences of its commission, as well as the death of the victim [7].

Assessing the risks of domestic violence or its recurrence should be carried out by analysing a number of factors, including the causes of this phenomenon. According to the Concept of the State Social Program for Prevention and Counteraction to Domestic Violence and Gender-Based Violence for the Period up to 2023, the main causes of domestic violence and gender-based violence include, among others:

- the prevalence of stereotypes about the social role of women and men, the preference of one sex over another in terms of physical strength;
- the predominant impunity of perpetrators of domestic and gender-based violence and the prevalence of such phenomena;
- stereotypical perceptions of society about the privacy of domestic violence;
- application of a model of violent behavior by children who have experienced domestic violence in any form or witnessed such violence (21% of those

who experienced physical violence in childhood also use physical force against children);

- low level of public confidence in the authorities, other bodies and institutions entrusted with the functions of implementing measures in the field of preventing and combating domestic and gender-based violence;

- low availability of domestic and gender-based violence victims to high-quality comprehensive services, due to imperfect mechanisms of interaction of actors implementing measures to prevent and combat domestic and gender-based violence, the lack of such subjects of special knowledge and skills, psychological burnout, limited human resources, including social workers, psychologists, specialized institutions for victims;

- *imperfect mechanisms for bringing to justice those guilty of domestic violence, gender-based violence;*

- *lack of systematic research and analysis of trends in solving problems of domestic violence, domestic violence against children, gender-based violence, imperfection of the data collection system for the required indicators* [8].

In accordance with current legislation provisions, risk assessment in Ukraine is carried out by police officers on the fact of committing domestic violence. The assessment process includes a victim survey conducted by the police, as well as an analysis of the event and circumstances, whereby the law enforcement officer completes a risk assessment form for domestic violence. Although this form contains the approximate (most common) circumstances of

this type of violence, it may include circumstances that are not provided for. That is why the police officer can, at their own discretion, on the basis of analysing the circumstances of the offense, or other factors relevant to the event, assess the domestic violence risk level. The latter can be defined as low, medium, or high. Hazard / risk factors for domestic violence are determined by the assessment results of the offender's actions, which indicate the likelihood of fatal consequences in the case of domestic violence, and are presented in the form of risk assessment of domestic violence in the form of questions. Direct legal regulation of this assessment is carried out by the provisions of the Order of the Ministry of Internal Affairs of Ukraine On approval of the Procedure for risk assessment of domestic violence of March 13, 2018 №369/180 [9].

Summarizing the above, we can indicate the following. Today, the issue of preventing domestic violence is an extremely important issue. Ukraine has introduced a risk assessment procedure by implementing modern tools for the prevention of domestic violence. It is innovative that the police officer is empowered to determine the level (low, medium, high) at their own discretion after conducting a risk assessment of a specific case of domestic violence. This has significantly expanded the preventive powers of the police, and made it possible to apply special measures to combat domestic violence more effectively.

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