

ppi 201502ZU4645

Esta publicación científica en formato digital es continuidad de la revista impresa  
ISSN-Versión Impresa 0798-1406 / ISSN-Versión on line 2542-3185 Depósito legal pp  
197402ZU34

# CUESTIONES POLÍTICAS

Instituto de Estudios Políticos y Derecho Público "Dr. Humberto J. La Roche"  
de la Facultad de Ciencias Jurídicas y Políticas de la Universidad del Zulia  
Maracaibo, Venezuela



Vol.41

N° 76

Enero

Marzo

2023



# Peculiarities of judicial consideration of causes related to domestic violence: comparative analysis

DOI: <https://doi.org/10.46398/cuestpol.4176.30>

*Liudmyla Golovko* \*  
*Nataliia Shynkaruk* \*\*  
*Olena Yara* \*\*\*  
*Olena Uliutina* \*\*\*\*  
*Viktorii Halai* \*\*\*\*\*

## Abstract

The article is devoted to the analysis of the features of legal protection of victims of domestic violence, with the purpose of identifying the positive experience that has been proved in practice and, therefore, is worth following in Ukraine as in other countries to prevent this form of violence. To achieve this purpose, general and special scientific research methods were used, in particular dialectical, historical-legal, systematic, comparative legal methods. In this regard, international experience in dealing with cases related to domestic violence was also studied using the examples of European countries and Canada and the United States. The legal provision for the protection of persons who have suffered domestic violence was also considered. As a contribution of the research, the problems of legal provision of judicial protection of victims of domestic violence in Ukraine were revealed and, at the same time, suggestions were made to improve the legislation regulating the killing. It is concluded that it is necessary to strengthen the position of the victim of domestic violence by giving her the opportunity to claim compensation for moral damages within the framework of a given criminal proceedings.

**Keywords:** judicial protection; domestic violence; right to judicial guarantees; protection against domestic violence; victims of domestic violence.

\* National University of Life and Environmental Sciences of Ukraine, Kyiv, Ukraine. ORCID ID: <https://orcid.org/0000-0002-3742-2827>

\*\* National University of Life and Environmental Sciences of Ukraine, Kyiv, Ukraine. ORCID ID: <https://orcid.org/0000-0002-4488-6240>

\*\*\* National University of Life and Environmental Sciences of Ukraine, Kyiv, Ukraine. ORCID ID: <https://orcid.org/0000-0002-7245-9158>

\*\*\*\* National University of Life and Environmental Sciences of Ukraine, Kyiv, Ukraine. ORCID ID: <https://orcid.org/0000-0003-1982-9911>

\*\*\*\*\* State University of Economics and Technologies, Kryvyi Rih, Ukraine. ORCID ID: <https://orcid.org/0000-0003-1568-5068>

## Peculiaridades de la consideración judicial de las causas relacionadas con la violencia doméstica: análisis comparado

### Resumen

El artículo está dedicado al análisis de las características de la protección jurídica de las víctimas de violencia doméstica, con el propósito de identificar la experiencia positiva que se ha probado en la práctica y, por lo tanto, vale la pena seguir en Ucrania como en otros países para prevenir esta forma de violencia. Para lograr este propósito se utilizaron métodos de investigación científica generales y especiales, en particular métodos dialécticos, histórico-jurídicos, sistemáticos, jurídicos comparados. En este sentido, se estudió además la experiencia internacional en el tratamiento de casos relacionados con la violencia doméstica utilizando los ejemplos de países europeos y de Canadá y Estados Unidos. También se consideró la provisión legal de protección de las personas que han sufrido violencia doméstica. Como un aporte de la investigación, se revelaron los problemas de la provisión legal de protección judicial de las víctimas de la violencia doméstica en Ucrania y, al mismo tiempo, se hicieron sugerencias para mejorar la legislación que regula la mataría. Se concluye que es necesario reforzar la posición de la víctima de violencia doméstica dándole la oportunidad de reclamar una indemnización por daños morales en el marco de un proceso penal determinado.

**Palabras clave:** protección judicial; violencia intrafamiliar; derecho a las garantías judiciales; protección frente a la violencia intrafamiliar; víctimas de violencia domestica.

### Introduction

The problem of domestic violence is becoming more and more relevant in all countries and in Ukraine in particular. The reason for the increase in the number of cases of domestic violence around the world is, among other things, quarantine and forced self-isolation. According to the data of the national hotline of the public organization “La Strada”, since the beginning of the COVID-19 pandemic in Ukraine, the number of calls to the hotline has increased by at least half time. Victims of domestic violence need help and protection, including legal protection. Undoubtedly, one of the most effective means of protection against domestic violence is protection in court. Moreover, the judicial review of this category of cases has its own peculiarities.

At the same time, in many countries, a significant number of issues remained unsettled by legislation. This especially applies to the issues of judicial resolution of cases related to domestic violence and the realization of the right to a fair trial in cases related to domestic violence, as well as enforcement of court decisions on issuing restraining orders. This encourages comparative research in this area.

The purpose of this scientific article is to determine and justify main features of judicial consideration of cases related to domestic violence in different countries with the goal to make suggestions for improving the relevant legislation in Ukraine.

## **1. Materials and methods**

To achieve the goals and solve the tasks set in the article, general scientific and special research methods were used. Dialectical method was used to determine the conceptual and categorical apparatus, definition of the concept of the right to a fair trial. Historical-legal method was used to research the history of the formation of legislation on prevention and protection from domestic violence in Ukraine. With the help of systematic method, the structure and constituent elements of the right to a fair trial in cases related to domestic violence were determined.

The comparative legal method was used to establish the features of judicial protection of victims of domestic violence in individual countries, the legislative provision of this type of protection, as well as legislation in the field of combating domestic violence, and the identification of positive experiences and weaknesses in this area; institutional method - to study the functioning of various institutions which function in the field of protection of victims of domestic violence; analysis and synthesis - to study the basic principles of legal regulation of protection of victims of domestic violence in European countries, Canada and the USA; system method - to systematize and generalize the source base of research. Using a predictive method proposition to improve the legislation of Ukraine in the field of prevention and countermeasures against domestic violence and legal protection of victims of domestic violence were made.

## **2. Results and Discussion**

The problem of domestic violence has been studied by many scientists. Thus, Lesko in her dissertation research studied the administrative and legal protection of children from domestic violence (Lesko, 2019). Samchenko in her dissertation paid attention to the protection of minors from domestic

violence, but emphasized the criminological characteristics and prevention of domestic violence (Samchenko, 2011). Kovalyova studied administrative and legal responsibility for committing domestic violence (Kovalova, 2018).

Slukhayenko studied the criminological characteristics of domestic violence. The author claims that creating a criminological portrait of a criminal makes it possible to prevent violence in the future (Slukhayenko, 2020). Lischuk investigated the issue of protecting women from violence with the help of criminal legal norms (Lischuk, 2020).

Problems of combating domestic violence were also studied (Funta *et al.*, 2020) emphasizing the need for the cooperation of subjects implementing measures in the field of prevention and counteraction of domestic violence.

However, the realization of the right to a fair trial in cases related to domestic violence still remains relevant and urgent and requires deep scientific analysis.

In order to ensure the protection of victims of domestic violence, it is necessary for the state to ensure the right to a fair trial. The right to a fair trial in cases related to domestic violence requires the presence of the following components: the creation of an opportunity to protect rights in court, access to effective legal remedies for victims of domestic violence, compensation for the damage caused.

According to the European Convention for the Protection of Human Rights and Fundamental Freedoms, everyone has the right to a fair and public hearing within a reasonable time by an independent and impartial court established by law, which will resolve a dispute regarding his/her civil rights and obligations or establish the validity of any criminal charge brought against him/her.

The judgment is announced publicly, but the press and the public may not be admitted to the courtroom during all or part of the trial in the interests of morality, public order or national security in a democratic society, if the interests of minors or the protection of the privacy of the parties so require, or to the extent, which is recognized by the court as strictly necessary when, under special circumstances, publicity of the proceedings may harm the interests of justice (Convention for the Protection of Human Rights and Fundamental Freedoms, 1950).

In 2017, the Verkhovna Rada of Ukraine adopted the Law of Ukraine “On Prevention and Combating Domestic Violence”, which entered into force on January 7, 2018. This law defines the basic principles of preventing and combating domestic violence, the main directions of implementation of the state policy in the field of prevention and combating domestic violence, regulates the issue of determining the entities that carry out measures in the field of prevention and combating domestic violence, tasks and measures for the prevention of domestic violence.

The adoption of the Law “On Prevention and Combating Domestic Violence” is an important step in the direction of combating such a shameful phenomenon as domestic violence. Domestic violence is no longer considered a private matter that is not talked about, but is recognized as a dangerous social problem that must be countered at the national level. To eradicate domestic violence, the Law introduced new approaches and new tools to counter this negative social phenomenon.

The law introduced new special measures to combat domestic violence, namely: an urgent restraining order against the offender; a restraining order against the offender; preventive registration of the offender and carrying out preventive work with him/her; sending the offender to undergo a program for offenders (Article 21 of the Law).

Urgent restraining order against the offender (obligation to leave the place of residence (stay) of the injured person; ban on entering and staying at the place of residence (stay) of the injured person; prohibition of any contact with the injured person) is issued by police officers for a period of 10 days. Preventive registration of the offender and carrying out preventive work with him/her is also carried out by the relevant police office at the place of residence (stay) of the applicant.

Since January 2019, not only administrative, but also criminal liability is provided for domestic violence in Ukraine. According to Article 126-1 of the Criminal Code of Ukraine, domestic violence is punishable by community service (for a term of 150 to 240 hours), arrest (for a term of up to 6 months), restriction of liberty (for a term of up to 5 years) or imprisonment (for term up to 2 years).

To qualify this article of the Criminal Code, it is necessary to prove the systematicity of domestic violence. Scientists (Funta, 2016; Gulac *et al.*, 2022; Kondratenko *et al.*, 2020; Ladychenko *et al.*, 2019; Oleksenko *et al.*, 2021; Sobol *et al.*, 2022) and others prove their position that systematicity should be understood as three or more acts of domestic violence. The introduction of criminal liability for domestic violence is definitely a positive step, as understanding the possibility of criminal liability serves as a deterrent for the offender.

According to the Law of Ukraine “On Prevention and Combating Domestic Violence” in civil proceedings, the court may issue a restraining order against the offender who committed domestic violence, which determines one or more measures to temporarily limit the rights of the offender or impose obligations on him:

1. prohibition to stay in the place of common residence with the injured person;

2. removal of obstacles to the use of property that is the object of the right of common co-ownership or personal private property of the affected person;
3. restriction of communication with the affected child;
4. prohibition to approach within a specified distance to the place of residence, work, other places frequently visited by the affected person;
5. prohibition to search for the injured person personally and through third parties, if he/her is voluntarily in a place unknown to the offender, to pursue him/her and communicate with him/her in any way;
6. prohibition to conduct correspondence, telephone conversations with the victim or contact him/her through other means of communication personally and through third parties (Law of Ukraine, 2018).

The positive side of Ukrainian legislation is the establishment of limited terms for consideration of cases on the issuance of a restraining order. Thus, according to part 2 of Article 350-5 of the Civil Procedure Code of Ukraine, the court must consider the case of issuing a restraining order no later than 72 hours after the application is submitted to the court, which contributes to ensuring such an important component of the right to a fair trial as “a reasonable period of consideration of the case”. The positive side is also that, according to the Law of Ukraine “On Court Fees”, the applicant is exempted from paying the court fee for submitting an application for the issuance of a restraining order.

Court costs for consideration of such cases are reimbursed by the state. It certainly also contributes to the realization of the right to a fair trial for victims of domestic violence. At the same time, a gap in Ukrainian legislation regarding the settlement of the following issue should be noted. The decision to issue or refuse to issue a restraining order is made on the basis of an assessment of the risks of committing domestic violence.

However, there is no form of risk assessment that can be used by judges. Undoubtedly, judges can use the form for assessing the risks of committing domestic violence, developed for police officers when establishing the need to issue an urgent restraining order, which is defined by the order of the Ministry of Social Policy of Ukraine and the Ministry of Internal Affairs of Ukraine of 13.03.2019 No. 369/180 “On approval of the Procedure for conducting an assessment of risks of domestic violence.” However, approving a form for judges to assess the risks of committing domestic violence would make their work much easier and allow for a more objective assessment of the situation.

According to Part 2 of Article 350-8 of the Code of Civil Procedure, the court notifies the authorized subdivisions of the National Police of Ukraine at the place of residence of the applicant about the issuance or extension of a restraining order no later than on the day following the day of the decision, in order to arrest the person in respect of whom the restraining order has been issued or extended prescription, for preventive registration, as well as regional, district in the cities of Kyiv and Sevastopol state administrations and executive bodies of village, settlement, city, district councils in cities at the place of residence (stay) of the applicant (Civil Procedural Code of Ukraine, 2004).

After receiving the notification, the National Police body must place the offender on preventive registration, ensure control over the offender's behavior and carry out preventive work in order to prevent further violence in the family. However, it is not established at the legislative level what is understood under the control over the offender's behavior and what is understood under preventive work with him/her, and exactly how it should be carried out. As a result, this requirement of the law is not fulfilled in practice.

Therefore, without a doubt, it is necessary to enshrine at the legislative level the definition of control over the behavior of the offender, to reveal what is the preventive work of police officers with the offender and in what way they should be carried out, since without proper legal regulation of this issue, this type of special measure of combating domestic violence has a declarative nature. In addition, there is a problem of refusal of public and private executive services to enforce court decisions on the establishment of restraining orders, which also requires legislative regulation.

According to Article 128 of the Criminal Procedure Code of Ukraine, a person who has suffered moral damage as a result of a criminal offense has the right to file a civil lawsuit against the offender during criminal proceedings, before the trial begins. In our opinion, it is necessary to strengthen the position of the victim of domestic violence by giving her/him the opportunity to claim compensation for moral damage also within the framework of criminal proceedings, and not only within the framework of civil proceedings.

The issue of ensuring a sufficient number of institutions that provide assistance to women who have experienced domestic violence has not been fully resolved. It is necessary to expand the existing network of social services for victims of domestic violence. The goal is to provide support for those individuals who, after leaving an abuser, start life "with a clean slate" and without financial resources, or who do not have access to financial resources, or who for other reasons find themselves without affordable housing.



It is also necessary to develop standards for work with victims of domestic violence, as well as standards that apply to the work of crisis centers, for example in the form of a code of ethics. The need to respect the secrecy of the address of the place of residence of a person who has become a victim of domestic violence must be reflected at the legislative level as well.

Let's consider the peculiarities of legal protection of victims of domestic violence in Canada and the USA, which belong to the Anglo-American legal family. In these countries, considerable attention is paid to the protection of victims of domestic violence, so studying their experiences is useful.

Canada is a federal state. Therefore, protection against domestic violence is carried out at two levels: federal and provincial. At the federal level, there is no single regulatory law aimed at preventing and combating domestic violence. Such laws have been passed in some provinces that provide protection to victims of domestic violence. In particular, statutory civil remedies include emergency intervention orders, which may entitle only the victim to stay at home and use the family vehicle. Preventive measures may also include prohibiting the offender from communicating with or contacting the victim or family members.

The judicial system in each of its provinces also has its own characteristics, for example, in some provinces cases of domestic violence are heard by special courts or judges who specialize in the consideration of this type of cases, and in others by general courts that lack specialization (Fouley, 2018). Importantly, the creation of specialized courts to deal with domestic violence cases has received favorable reviews from both the public and academics.

The creation of specialized courts to deal with this category of cases indicates the state's condemnation of such a shameful phenomenon and the fact that domestic violence is a social problem, and not only the problem of the victim of domestic violence. The creation of specialized courts to deal with domestic violence cases has a number of advantages. First, a uniform approach to solving domestic violence cases is ensured, improves the quality of judicial implementation, increases the protection of the rights of victims of domestic violence. Secondly, a quick resolution of this category of cases is guaranteed, which allows for faster and more effective response to cases of violence.

Domestic violence cases are heard in a courtroom specially equipped for hearing this category of cases. Courts also have special rooms where lawyers representing the parties (offender and victim), social workers and psychologists gather. If the offender has pleaded guilty to domestic violence, he/her is asked whether he/she agrees to undergo a psychological and social rehabilitation program and to compensate the harm caused to the victim.

If the person who committed domestic violence does not admit his/her guilt, the court considers the case. Employees of public organizations involved in combating domestic violence, police and social service workers are often involved in the judicial review of cases. The offender is not deprived of the right to peaceful settlement of the dispute during the trial, but in this case the offender will be forced to pay higher court costs.

In Ontario, there are 47 specialized family courts which offer family mediation and provide information services. In Ontario, mediation is provided even in the case of domestic violence (Schwartz, 2022).

Here it should be noted a debatable point about whether mediation should be used in cases involving domestic violence. A certain group of experts argue that domestic violence leads to an inequality of power between the abuser and his/her victim, which the mediator cannot balance, and this inequality, according to them, precludes mediation. The victim, in their opinion, is not able to make free decisions concerning him/her, but also children, property, etc. Moreover, in most cases, the ability of the abuser and his victim to make joint decisions is lacking. Domestic violence also threatens the legality of mediation.

The result of successful mediation should be the conclusion of a mutually beneficial agreement (mostly in written form). It is therefore a legal act to which the provisions of the criminal code or a special law apply. In the case when one party commits violence or psychological abuse on the other side, then the validity of the agreement concluded between them under such conditions can be successfully doubted.

It can therefore be concluded that both parties went through mediation in vain, because the condition of free agreement (without coercion) in the mediation process on the relationship of both parties involved is highly improbable and the agreement may be invalid (Žofčák, 2014). In addition, the use of mediation in domestic violence cases is contrary to the Council of Europe Convention on the prevention of violence against women and domestic violence. Protection of the rights and interests of victims, their personal and public safety should be given priority when solving domestic violence cases.

An emergency protection order for victims of domestic violence can be issued by a provincial court judge. The issuance of such an order can be carried out without notifying the offender, if the judge concludes that as a result of the violence, the applicant has reason to believe that the offender will continue to commit violence and the seriousness of the situation requires immediate protection of the victim.

A feature of the USA is the presence of a developed and effective system for preventing domestic violence. Having a mandatory response strategy is worth following. The country has more than five rapid response services

(hotlines) for combating domestic violence: a general line for domestic violence and special lines for sexual violence, protection of victims against rape (National Hotlines, 2022). Medical facilities are required to report any incidents of violence. In some states, citizens must inform law enforcement agencies about cases of child abuse (Lesko, 2019).

More than 30 US states have their own laws that prohibit or restrict convicted sex offenders from living near places visited by children. In addition, a specific distance is fixed at which persons under control are prohibited from approaching the protected object (Kharlamova *et al.*, 2021).

As in Canada, domestic violence cases are handled by specialized courts in the United States. A useful experience of the USA is the creation of the Model Code on Domestic and Family Violence, which, although not a law in the general sense, serves as an example of the development of its own legislation by individual states. The five chapters of the Model Code include General Provisions, Criminal Penalties and Procedures, Civil Orders for Protection, Family and Children, and Prevention and Treatment (Model Code, 1994). In our opinion, the development of such a code would be useful in Ukraine and other European countries.

On the basis of the police of European states, there are specialized groups for combating domestic violence, which have been working successfully for a long time. On their basis, interdisciplinary cooperation between various bodies is carried out. The purpose of creating these specialized groups is to expand this good practice and introduce it to the judicial system.

An important tool of their activity is interdisciplinary cooperation and the exchange of information and experience between interested entities, establishing contacts between relevant institutions, expressing their own requirements regarding the form or quality of work of individual institutions, providing information on the competence and capabilities of individual entities. The creation of such specialized groups is a new practice and, in our opinion, Ukraine should follow this experience. It is also necessary to create a system of permanent education based on interdisciplinary cooperation.

The task consists mainly in the systematic and long-term education of those professionals who, in the performance of their official duties, most often come into contact with persons who are at risk of domestic violence. This applies primarily to doctors, medical personnel, teachers, educators and pedagogical workers, social workers, judges and representatives of the state, including police officers. The goal is to provide workers in these professions with the information necessary to recognize domestic violence and to provide qualified assistance in the event of domestic violence.

According to the Criminal Code of Slovakia N° 301/2005, for the beginning of criminal proceedings against a person who committed

domestic violence, the victim's permission is not required. The great positive moment of the new Criminal Procedure Code is to reduce the terms of investigation of family crimes. Thus, according to § 204 of the Criminal Procedure Code, it is possible to bring the offender before the court up to 48 hours after committing domestic violence, which significantly reduces the possibility of the offender escaping and imposing punishment (including imprisonment) more quickly (Law of the Slovak Republic, 2005).

The principle that the right to protection of life and health has priority over the protection of property rights is also reflected in the Civil Code of Slovakia. § 142 of the Civil Code establishes the court's right to make a decision on limiting the right of one of the spouses to use a joint residence. At the same time, it is important to cancel the provision that obliged to provide a place of residence for the partner who committed violence in the family.

A significant positive effect in the fight against domestic violence was given by the development of the Procedures of police officers in the case of family violence within the framework of the "Alterna" project of the Slovak crisis center "Dotyk" (Slovak crisis center Dotyk, 2022).

This technique was distributed in all police departments. The purpose of this methodology was to help police officers who have the first contact with persons who have experienced domestic violence in their work. Police assistance always depends on a specific case. At the initial stage of domestic violence, police officers can help the victim and the perpetrator to classify the offense and advise to resolve the conflict with the help of support organizations.

At a later stage, when a woman is ready to submit a statement about the commission of a criminal offense, the police officer is obliged to accept the statement and act in the interests of the victim of domestic violence. The Methodology draws attention to the fact that it is undesirable for police officers to have any delays, it is necessary to accept the statement on the spot.

The Methodology examines in detail the sequence of activities of police officers after arriving at the crime scene, contact with both parties, the sequence of information gathering and problem solving by police officers. Police officers are obliged to inform the victim of domestic violence not only about her rights, but also about the possibility of obtaining further help and support. Part of the methodology is also the obligation to provide contacts of organizations that provide assistance to victims of domestic violence.

In January 2007, Law No. 135/2006 " On Prevention of Domestic Violence " came into force in the Czech Republic (Law of the Czech Republic, 2006). With the adoption of the above-mentioned legal act, the Czech Republic, like other European countries, joined the intention to take a comprehensive approach to solving the problem of domestic violence.

The law outlined the main directions of implementation of state policy in the field of combating and preventing domestic violence, established legal boundaries for solving the problem of domestic violence by introducing special measures to combat domestic violence, including by temporarily evicting the perpetrator from the apartment shared with the victim.

The law also regulates the conditions for providing legal, psychological, and social assistance to victims of domestic violence in crisis centers, as well as cooperation between state bodies, municipal bodies, and public organizations which activities are aimed at combating domestic violence and helping victims of violence.

In order to implement the provisions of the Law “On the Prevention of Domestic Violence” in the Czech Republic since 2007, crisis centers have been operating that provide social and psychological assistance to victims of domestic violence. If there is a threat of repeated domestic violence, according to the Law, legal aid is provided to persons at risk of violence by evicting the perpetrator from the apartment shared with the victim.

In order to apply the legislation in practice, systematic training measures were implemented for police officers, social workers, judges, doctors, employees of social and legal child protection bodies, administrative commissions, local self-government bodies and other professionals who have contact with victims of domestic violence. These training measures had significant positive effect.

§ 199 of the Criminal Code of the Czech Republic provides for a criminal offense, which is classified as “violence against a person living in a shared apartment”; § 354 provides for the criminal offense of “dangerous stalking,” which often becomes a “domestic violence” offense after the victim of domestic violence leaves the abuser. § 141 of the Criminal Code establishes the possibility of mitigating the punishment for murder by taking into account the condition of the murder by a person who has been a victim of domestic violence for a long time (Law of the Czech Republic, 2009).

On January 1, 2009, Law No. 273/2008 “On Police” (Law of the Czech Republic, 2008) entered into force, which amended the Law “On Prevention of Domestic Violence”, based on the experience of implementing the legislation in practice during the year. The eviction of the offender from the apartment shared with the victim of domestic violence came to be understood as the exercise of the powers of police officers, that is, it is not a question of a decision issued in administrative proceedings, but is understood as an actual action.

Thus, according to Law No. 273/2008 “On the Police”, the procedure for eviction of an offender from a shared residence has been significantly simplified for police officers, since they are no longer forced to make a formal decision with all its components, including justification, and the need for

a complex decision of administrative body on assignment procedure, as well as the need to investigate compliance with the terms of the offender's eviction in appeal proceedings has disappeared.

A positive feature of the above-mentioned changes is also the elimination of the risks of procedural offenses, and the simplification of the work of police officers makes it possible to focus in practice on the correct determination of qualifying signs of domestic violence.

### **Conclusions**

A special feature of Canada and the USA is the presence of specialized courts to resolve domestic violence cases. Such a system has positive feedback from the public and scientists, as it contributes to a more qualified and quick resolution of cases.

Having studied the practice of combating domestic violence in the countries of Eastern Europe, we found the following positive experience: actual assistance to victims of domestic violence by ensuring the availability of specialized social services; work with offenders; educational work for employees who have contact with victims of domestic violence; disseminating information about the state of domestic violence in order to prevent it and change society's attitude to domestic violence, as well as about the bodies and services to which victim can turn for help in the event of violence in the family.

The value of the Czech experience in combating domestic violence lies in its systematicity. The main directions of measures include: legal reform on this issue, improvement of law enforcement agencies, development of social services; educational programs, rehabilitation programs. The Czech experience is relevant not only in the introduction of mandatory psychological programs for offenders and educational programs in schools to work with students on the topic of promoting benevolent and tolerant coexistence of family members, but also in the development of teaching methods for the mentioned issues.

A positive experience of Slovakia should be considered the development of the Methodology of actions of police officers in the case of domestic violence, which was developed in the framework of the "Alternat" project of the Slovak crisis center "Dotyk", which was distributed to all police departments. One of the most important parts of this methodology is the contacts of organizations that provide assistance to victims of domestic violence.

Undoubtedly, the adoption of the Law of Ukraine "On the Prevention and Counteraction of Domestic Violence", the introduction of criminal

liability for the commission of domestic violence and the introduction of amendments to a number of normative legal acts aimed at regulating domestic violence issues is a positive step in the fight against such a negative phenomenon as domestic violence. At the same time, a significant number of issues remained unresolved. This especially applies to the issues of judicial resolution of cases related to domestic violence and the realization of the right to a fair trial in cases related to domestic violence, as well as enforcement of court decisions on issuing restraining orders.

There is a need to develop a form for assessing the risks of re-committing domestic violence, as it is done for police officers when establishing the need to issue an urgent restraining order. Also, at the legislative level, it is necessary to establish what the preventive work of police officers with the offender is and how it is carried out, since without proper regulatory and legal regulation of this issue, this type of special measure of combating against domestic violence is declarative in nature and is not applied in practice.

There is a problem of the refusal of public and private executive services to enforce court decisions on the establishment of restraining orders, which also requires legislative regulation. In addition, it is necessary to strengthen the position of the victim of domestic violence by giving them the opportunity to claim compensation for inflicting moral damage within the framework of criminal proceedings.

### **Bibliographic References**

- CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS. 1950. Available online. In: [https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf). 02/11/2022.
- FOULEY, Tetiana. 2018. "A training course on domestic violence adjudication: the Canadian experience" In: Bulletin of the National Academy of the Prosecutor's Office of Ukraine. Vol. 4/2, No. 58, pp. 110-121.
- FUNTA, Rastislav. 2021. International law. 2. vyd. MSD. Brno, Czech Republic.
- FUNTA, Rastislav; GOLOVKO, Liudmyla; JURIŠ, Filip. 2016. Europe and European law. Bratislava, Slovakia.
- GULAC, Olena, OLEKSENKO, Roman., KALUHA, Volodymyr, KRAVCHENKO, Olena, YUKHYMENKO, Nataliia. 2022. "Overcoming the environmental crisis in the forest sector of Ukraine in the context of the European green course" In: Revista de la Universidad del Zulia. Vol. 13, No. 38.



- KHARLAMOVA, Darya; INOZEMTSEV, Mykola. 2021. "The fight against domestic violence in Ukraine and global practice" In: *Young Scientist*. Vol. 5, No. 93, pp. 341-347.
- KONDRATENKO, Vitalii; MANZHULA, Andrii; SOBOL, Yevhen. 2020. "The Current Factors of Ensuring the Activities of Public Administration Regarding the System of Social Adaptation of Children with Disabilities" In: *Journal of History Culture and Art Research*. Vol. 9, No. 1, pp. 122-132.
- KOVALOVA, Olena. 2018. "Administrative responsibility for committing domestic violence: features of the implementation of new legislation" In: *South Ukrainian Law Journal*. Vol. 2, pp. 60-63.
- LADYCHENKO, Viktor; YARA, Olena; ULIUTINA, Olena; GOLOVKO, Liudmyla. 2019. "Environmental liability in Ukraine and the EU" In: *European Journal of Sustainable development*. Vol. 8, No. 2, pp. 261-267.
- LAW OF THE CZECH REPUBLIC. 2006. Law amending some laws in the field of protection against domestic violence No. 135/2006. Available online. Available online. In: <https://www.psp.cz/sqw/sbirka.sqw?cz=135&r=2006>. Consultation date: 15/11/2022.
- LAW OF THE CZECH REPUBLIC. 2008. Law on the Police of the Czech Republic No. 273/2008 Coll. Available online. In: <https://www.epi.sk/zacr/2008-273>. Consultation date: 15/11/2022.
- LAW OF THE CZECH REPUBLIC. 2009. Criminal Code. Available online. In: <https://www.zakonyprolidi.cz/cs/2009-40>. Consultation date: 15/11/2022.
- LAW OF THE SLOVAK REPUBLIC. 2005. Criminal Code No. 301/2005. Available online. In: <https://www.zakonypreludi.sk/zz/2005-300>. Consultation date: 15/11/2022.
- LAW OF UKRAINE. 2004. Civil Procedure Code of Ukraine. Bulletin of the Verkhovna Rada of Ukraine, № 40-41, 42, st.492.
- LAW OF UKRAINE. 2018. Law on Prevention and Counteraction to Domestic Violence. Bulletin of the Verkhovna Rada. № 5, st.35.
- LESKO, Natalia. 2019. Administrative and legal support for the formation and implementation of state policy in the field of protection of children from violence and other illegal actions. PhD Thesis. Lviv Polytechnic National University. Lviv, Ukraine.



- LISCHUK, Natalia. 2020. Violent actions against women: causes and prevention. PhD Thesis, Lviv State University of Internal Affairs. Lviv, Ukraine.
- MODEL CODE ON DOMESTIC AND FAMILY VIOLENCE. 1994. Available online. In: <https://www.ncjfcj.org/publications/model-code-on-domestic-and-family-violence/>. Consultation date: 15/11/2022.
- NATIONAL HOTLINES AND HELP FOR VICTIMS. 2022. Available online. In: <http://surl.li/bockh>. Consultation date: 15/11/2022.
- OLEKSENKO, Roman; MALCHEV, Bogdan; VENGER, Olga; SERGIENKO, Tetiana; GULAC, Olena. 2021. "The Phenomenon of the Modern Ukrainian Voter: Essence, Peculiarities and Trends of its Development" In: Cuestiones Políticas. Vol. 39, No. 71, pp. 417-432.
- SAMCHENKO, Marta. 2011. Criminological characteristics and prevention of domestic violence against minors. PhD Thesis. Lviv State University of Internal Affairs. Lviv, Ukraine.
- SCHWARTZ, Daniel. 2022. "Mediation Where There Has Been Domestic Violence" Available online. In: <https://www.separation.ca/videos/alternative-dispute-resolution/mediation-where-there-has-been-domestic-violence/>. Consultation date: 15/11/2022.
- SLOVAK CRISIS CENTER DOTYK INTRODUCES ITSELF. 2022. Available online. In: <https://www.martin.sk/slovenske-krizove-centrum-dotyk-sa-predstavuje/d-25901>. Consultation date: 15/11/2022.
- SLUKHAYENKO, Yuriy. 2020. "Forensic characteristics of domestic violence" In: Bulletin of LDUVS named after E.O. Didorenko. Vol. 3, No. 91, pp. 295-306.
- SOBOL, Yevhen; KONDRATENKO, Vitalii; OKOPNYK, O; FOMICHOV, K; SLIARENKO, I. 2022. "Interactions between the international convention and the system of guaranteeing the rights of persons with disabilities in Ukraine" In: Cuestiones Políticas. Vol. 40, No. 74), pp. 662-672.
- ŽOFČÁK, M. 2017. Mediation in practice – the possibility of solving domestic violence. Criminology options to solve domestic violence. Proceedings of the scientific conference with international participation held on April 20, 558-566. Available online. In: [https://www.paneurouni.com/wpcontent/uploads/2017/03/zbornik\\_prispevkov\\_domace\\_nasilie\\_bez\\_orezov.pdf](https://www.paneurouni.com/wpcontent/uploads/2017/03/zbornik_prispevkov_domace_nasilie_bez_orezov.pdf). Consultation date: 15/11/2022.



UNIVERSIDAD  
DEL ZULIA

---

# CUESTIONES POLÍTICAS

Vol.41 N° 76

*Esta revista fue editada en formato digital y publicada en enero de 2023, por el **Fondo Editorial Serbiluz**, Universidad del Zulia. Maracaibo-Venezuela*

[www.luz.edu.ve](http://www.luz.edu.ve)  
[www.serbi.luz.edu.ve](http://www.serbi.luz.edu.ve)  
[www.produccioncientificaluz.org](http://www.produccioncientificaluz.org)