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# EMPIRICAL ANALYSIS OF LEGAL REGULATIONS ON FAMILY VIOLENCE DURING WARTIME IN UKRAINE: A COMPREHENSIVE EXAMINATION

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Abstrak: Artikel ini berfokus pada pengkajian kekerasan dalam lingkup keluarga pada kondisi perang di Ukraina dan mengusulkan model kriminologis untuk mencegah jenis pelanggaran hukum ini. Penelitian ini mengungkap peningkatan signifikan dalam catatan pelanggaran hukum yang melibatkan kekerasan dalam lingkup keluarga di tengah invasi Rusia yang tidak diprovokasi ke Ukraina. Selama sepuluh bulan pada tahun 2023, jumlah kasus yang terdaftar meningkat hampir 50% dibandingkan dengan periode yang sama pada tahun 2022, dengan peningkatan rata-rata sebanyak 27 kasus pelanggaran hukum yang tercatat setiap bulannya pada tahun 2023 dibandingkan dengan tahun 2021. Tingkat stres yang tinggi, pemindahan keluarga, dan kembalinya pejuang yang mengalami trauma berkontribusi pada peningkatan kekerasan dalam lingkup keluarga selama dan setelah perang. Hal ini memperparah kejadian kekerasan fisik, psikologis, dan seksual di rumah tangga. Artikel ini mengatasi masalah ilmiah penting dengan memajukan pengetahuan tentang kekerasan dalam lingkup keluarga melalui pendekatan praxeological, bertujuan untuk mengidentifikasi solusi terhadap masalah-masalah fundamental dan terapan terkait perlindungan keluarga di Ukraina. Penelitian ini membuktikan bahwa perang Rusia-Ukraina meningkatkan tingkat dan tingkat keparahan pelanggaran hukum dan kasus kekerasan dalam lingkup keluarga, yang memerlukan perubahan paradigma dalam respons hukum pidana negara terhadap pelaku kekerasan dalam lingkup keluarga. Artikel ini menyusun secara sistematis pencapaian dalam mengatasi dan mencegah kekerasan dalam lingkup keluarga, mensintesis praktik penegakan hukum dan masyarakat di Ukraina dan secara global, serta membenarkan arah diferensiasi dan individualisasi hukuman bagi pelaku kekerasan dalam lingkup keluarga.

Kata kunci: kekerasan, lingkungan keluarga, kekerasan dalam rumah tangga, pelaku, faktor penentu, korban kekerasan, pencegahan, perang.

**Abstract:** This article focuses on examining family violence within the context of wartime conditions in Ukraine and proposes a criminological model for preventing such criminal offenses. The study reveals a significant surge in registered criminal offenses featuring domestic violence amidst the full-scale unprovoked invasion of Russia into Ukraine. Over a ten-month period in 2023, cases have risen by nearly 50% compared to the same period in 2022, with an average monthly increase of 27 recorded criminal offenses in 2023 compared to 2021. The heightened levels of stress, displacement of families, and the return of traumatized combatants contribute to an increase in domestic violence during and after war. This exacerbates incidents of physical, psychological, and sexual violence

within households. The article addresses a critical scientific issue by advancing knowledge on family violence through a praxeological approach, aiming to identify solutions for fundamental and applied issues related to family protection in Ukraine. The study establishes that the Russian-Ukrainian war has elevated the frequency and severity of criminal offenses and instances of violence within the family sphere, necessitating a paradigm shift in the state's criminal-legal response to domestic violence perpetuated by offenders. The article systematically organizes achievements in countering and preventing family violence, synthesizes law enforcement and public practices in Ukraine and globally, and justifies directions for differentiating and individualizing punishment for perpetrators of family violence.

Key words: violence, family sphere, domestic violence, offender, determinants, victim of violence, prevention, war.

## **INTRODUCTION**

The problem of violence in the family sphere is largely related to ensuring the observance of human rights and freedoms not only in the family, as the main center of society, but also in other spheres of public life. Since the problem of violence in the family sphere is not properly provided by state and non-state institutions, and in general it has been kept silent for a long time, we recognize this problem as urgent and insufficiently researched. Moreover, there could not be violence in the family sphere for ideological reasons, and on the other hand, the mentality of a significant part of Ukrainian society was such that manifestations of violence in the family could not be the property of the public.

Currently, domestic scientists in various fields of knowledge, including criminologists, are looking for an algorithm to overcome violence in the family sphere, realizing more and more clearly that this problem is most closely related to the crisis of legal culture, moral consciousness, alcoholism, drug addiction, prostitution, civil relations, etc. The institution of the family entered into a contradiction of ideas about a healthy way of life, issues related to marital relations, moral and religious values. To a large extent, the traditions and habits of a caring attitude towards family, parents, children, etc., were forgotten.

The deformation of the matrix of family life, lack of its protection by state institutions exacerbates the complex problem of violence in the family sphere. Among its destructive factors, we single out a sharp increase in the number of criminal offenses committed in this area. And this, in turn, disorganizes the vital activities of society, harms human rights and freedoms in Ukraine.

The problem of violence in the family sphere is very relevant in Ukrainian society. According to the data of law enforcement agencies of Ukraine, there are about 90,000 people on the register for committing domestic violence. Every year, about 5,000 minors become victims of criminal offenses, including by parents or persons who replace them or are engaged in education, 400 persons of them die, 2,000 are injured; more than 5,000 sexual crimes are registered, including depraved actions of adults against minors, the number of rapes reaches a thousand; escaping from cruel treatment, approximately 700 children and adolescents commit suicide every year, and 1500 leave their families.

Also, according to official statistics, 35% of women, who go to "emergency" hospitals, are there because of physical injuries related to abuse in the family; 50% of all homeless women and children have left their homes fleeing domestic violence; 50% of children from disadvantaged families, who have experienced family violence, are prone to drug and alcohol abuse; about 40% of all registered murders take place in families; domestic violence is the cause of 95% of divorce cases; there is also the fact that sexual violence in the family against women and minors is a fairly frequent phenomenon and has a high level of latency.<sup>1</sup>

Violence in the family sphere has become particularly relevant today, because military aggression acts as a kind of catalyst for the spread of this negative phenomenon. According to

<sup>&</sup>lt;sup>1</sup> Yakovenko, S. I. Maksimova, N. Yu. Moroz, L. I. Moroz, L. A. "Juvenile delinquency: causes, consequences and ways of prevention. Kyiv: Palivoda, (2006). 260.

the statistics of the General Prosecutor's Office, crime statistics in this area are characterized by the following dynamics. For the 2021 (pre-war) year, 2,431 criminal offenses registered under Art. 126<sup>-1</sup> of the Criminal Code of Ukraine (Uniform Report on Criminal Offenses, 2021). In 2022, a significant decline in recorded criminal offenses under Art. 126<sup>-1</sup> of the Criminal Code of Ukraine – 1496.<sup>2</sup> However, already for 10 months of 2023, 2,292 such criminal offenses were recorded, we are observing an upward trend, by the end of the year, the number of recorded criminal offenses will surpass the pre-war year of 2021.<sup>3</sup> The decrease in the number of registered criminal offenses in the first year of the war is explained by the fact that the population of Ukraine was in a state of shock from the war, as well as by the fact that a large part of Ukrainians became forced migrants and left for other countries. The given statistical data indicate the relevance of studying this problem and finding ways to solve it in modern conditions.

The scientific basis for understanding and researching crime in the family sphere was the work of both domestic and foreign scientists. For example, studied the concept and content of coordination of activities and interaction of subjects implementing measures in the field of prevention and counteraction of domestic violence.<sup>4</sup> She identified the main problematic issues that arise in connection with the performance of their powers by such entities.

Dzhafarova O., Ishchenko I., Kirika D., Kachynska M., Riazantseva I. studied the preventive activities of the National Police of Ukraine on combating domestic violence in the modern scenario.<sup>5</sup> The fact that the violence takes place in the family, often affecting women, attracts the public's attention the most. This violence is usually covert (hidden crime) because both the perpetrator and the victim try to keep the act secret from the public.<sup>6</sup>

Conceptual-categorical aspects of the terminological apparatus such as "violence", "domestic violence", "offenses related to domestic violence" are studied in the work (Shevchenko, 2022). The legal nature of the terms "violence in the family" and "domestic violence" was reserched by Malinovska,<sup>7</sup> the author also studied the meaning of these terms both from the standpoint of international legal acts and at the national level. The influence of family conflicts on the level of intentional murders was studied by Golovkin,<sup>8</sup> but at that time the national legislation of Ukraine did not even include such a criminal offense as "domestic violence", and criminologists considered it nothing more than a "background phenomenon".<sup>9</sup> There are attempts by domestic scientists to research such a phenomenon as domestic crime.<sup>10</sup>

Various innovative Concepts for the prevention of domestic violence for the period 2024-2030 are proposed, in particular regarding the consolidation of the efforts of state bodies to prevent domestic violence, the improvement of legislative and institutional support for such prevention, the establishment of effective interaction and coordination, as well as the neutralization of violations of the constitutional rights and freedoms of citizens and law and order as a guarantee of socio-political stability in the state; improving the living conditions of all

<sup>&</sup>lt;sup>2</sup> Uniform Report on Criminal Offenses January-December 2022. URL: http://surl.li/lpkjw.

<sup>&</sup>lt;sup>3</sup> Uniform Report on Criminal Offenses January-December. (2021). http://surl.li/lpkba.

<sup>&</sup>lt;sup>4</sup> Blaha A. B. "Actual issues of coordination of activities and interaction of subjects implementing measures in the field of prevention and counteraction of domestic violence." *The Journal of Eastern European Law*, 53 (2018), 4–11.

<sup>&</sup>lt;sup>5</sup> Dzhafarova O., Ishchenko I., Kirika D., Kachynska M., Riazantseva I. (2023) "Preventive Activities of the National Police of Ukraine to Counteract Domestic Violence under the Current Scenario." *Jurnal Cita Hukum*, 11 (2), 195–209 <u>https://doi.org/10.15408/jch.v11i2.34065</u>

<sup>&</sup>lt;sup>6</sup> Muhammad I. H. "Pengadilan Khusus KDRT; Implementasi Gagasan Sistem Peradilan Pidana Terpadu Penanganan Kasus-Kasus Kekerasan Terhadap Perempuan (SPPT-PKKTP)." *Jurnal Cita Hukum*, 2(2) (2014), 317–330. https://doi.org/10.15408/jch.v1i2.1471

<sup>&</sup>lt;sup>7</sup> Malinovska T. M. "Domestic violence: regarding the content of the term." Our law, 3,. (2020), 85–91. https://doi.org/10.32782/LAW.2020.3.14.

<sup>&</sup>lt;sup>8</sup> Golovkin B. M. "Criminological problems of intentional murders and grievous bodily harm committed in the family sphere." Kharkiv: Nove slovo, (2004), 252.

<sup>&</sup>lt;sup>9</sup> Vasiliev A. A. "Violence in the family: from a background phenomenon to a crime. Background phenomena for crime: prevention and countermeasures": All-Ukrainian science and practice conf. (Kharkov, April 27, 2018). Kharkiv: Kharkiv National University of Internal Affairs, (2018), 26–28.

<sup>&</sup>lt;sup>10</sup> Bogatyryov I. G., Bogatyryov A. I., Bogatyryova O. I. "Domestic Crime in Ukraine. A Criminological Model." Toliman, (2020), 136.

members of society and creating an atmosphere of peace and security in moral and psychological terms; comprehensive support for the development of civil society and all its institutions.<sup>11</sup>

Foreign scientists are more actively researching the problems of family crime. Thus, Simons, Burt, & Simons using structural level modeling (SEM) with a sample of 760 college students, tested various hypotheses about how harsh corporal punishment and conflictual relationships with parents increase the risk that men will be prone to participation in sexual violence on dates.<sup>12</sup> The obtained results indicate that family conflicts increase the chances that a young man will direct violence at his partner.

Improving responses to domestic violence requires obtaining evidence about the nature of violence and abuse that occurs and how it changes over time.<sup>13</sup> Scientists from all over the world are looking for the best positive practices (models) to prevent domestic violence. One model of good practice was developed using the results of a study of the effectiveness of three domestic violence advocacy projects. Roger Henrion notes that in France, support for victims of violence has continued to progress over the past decade and is a rare example of political continuity.<sup>14</sup> One of the ways to prevent domestic violence is the treatment of rapists in order to protect the victims, because scientists have proven that rapists, as a rule, do not stop, but continue their illegal activities more often and more intensively.<sup>15</sup>

The primary objective of this article is to investigate the prevalence of family violence during wartime in Ukraine and to formulate a criminological model aimed at preventing such criminal offenses. A crucial element in the prevention of these offenses lies in the role played by law enforcement, particularly police representatives. The effectiveness of police intervention is pivotal in ensuring the ongoing safety of the victim. The victim's interaction with the police holds significant importance, as positive experiences are more likely to encourage future contact with law enforcement, while negative encounters may deter victims from seeking police assistance in the future.

The relevance of this issue extends globally, affecting any country, but it takes on heightened significance for Ukraine in the context of Russia's armed aggression against the nation. Understanding and addressing the impact of family violence in these challenging wartime conditions is essential for the well-being and safety of individuals and families. Therefore, the overarching goal of this article is to contribute to the development of effective strategies and a comprehensive criminological model that can be applied in the prevention of family violence during times of armed conflict in Ukraine, with the broader implication of offering.

# **METHOD**

The article employs a diverse array of research methods, combining general scientific and special approaches to comprehensively investigate violence in the family sphere during wartime in Ukraine. The methodological foundation includes the method of system analysis, statistical methods such as analysis, synthesis, comparison, and generalization, as well as specific methods like the hermeneutic method, dialectical method, axiological method, humanistic method, formal-legal method, and comparative-legal method.

<sup>&</sup>lt;sup>11</sup> Tychyna D. M. "General social measures to prevent domestic violence in war conditions". *Law and public administration*, 3 (2022), 278–284 https://doi.org/10.32782/pdu.2022.3.42.

<sup>&</sup>lt;sup>12</sup> Simons R. L., & Associates "Understanding differences between divorced and intact families." Thousand Oaks, CA: Sage. (1996).

<sup>&</sup>lt;sup>13</sup> Aldarondo, E. "Cessation and persistence of wife assault: A longitudinal analysis." *American Journal of Orthopsychiatry*, 66. (1996). 141

<sup>&</sup>lt;sup>14</sup> Roger Henrion "Violences conjugales: a-t-on progressé? *Bulletin de l'Académie Nationale de Médecine.*" 198 (4–5), (2014). 893-903. https://doi.org/10.1016/S0001-4079(19)31295-6.

<sup>&</sup>lt;sup>15</sup> Foroudi, L. "Rising domestic violence is a hidden front in Ukraine's war" (August 3, 2023) <u>http://surl.li/oadus</u>.

The utilization of the epistemological method contributes to a clearer understanding of violence in the family sphere during wartime in Ukraine. The article extensively reviews literature from free-access resources such as academic journals, Google Book Search, Google Scholar, and scientific periodicals of Ukraine. The hermeneutic method is employed to interpret legal provisions, including those found in normative legal acts and international legal documents related to violence in the family sphere in Ukraine.

The article acknowledges the relevance of the dialectical method in understanding the interconnected and dynamic nature of phenomena, particularly in examining the current state of violence in the family sphere in Ukraine. This approach considers the development over historical time and the interdependence with other social and state phenomena. The axiological method is used to determine the public danger of violations in the family sphere and the public utility of state activity to address these violations.

Furthermore, the humanistic method is applied to highlight the human nature of state and legal provisions, emphasizing the protection of individual rights and freedoms. The formal-legal method is used to specify the normative-legal regulation of violence in the family sphere in Ukraine. Comparative-legal methods, including comparativehistorical, comparative-structural, and others, are employed to study various features related to the interpretation of the essence and content of the status of internally displaced persons and their protection from violence in the family sphere in Ukraine.

The practice of the development of criminal legislation faces to many cases when socially dangerous acts that were not criminally punishable were later recognized by the legislator as a criminal offense. Criminologists call the reasons for such changes in legislation: a) increase in the social danger of certain actions; b) the need to eliminate gaps in legislation; c) the emergence of new social relations that require protection with the help of criminal law norms. Along with the fact that the legislation worked and was effective in countering and preventing crime, the criminal law ban must be socially and criminologically predictable for the result. In view of this state of counteraction and prevention of domestic crime, the legislator justifiably supplemented the Criminal Code of Ukraine<sup>16</sup>:

1) Art. 126-1 "Domestic violence", i.e. intentional systematic perpetration of physical, 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 physical or psychological suffering, health disorders loss of working capacity, emotional dependence, or deterioration of the victim's quality of life, shall be punished by community service for a term of one hundred and fifty to two hundred and forty hours, or by arrest for a term of up to six months, or by restriction of freedom for a term of up to five years, or imprisonment for up to two years.

2) Art. 151-2 "Forcing marriage"<sup>17</sup> i.e. forcing a person to marry or to continue a forced marriage, or to cohabit without marriage, or to continue such cohabitation, or to encourage a person to move to the territory of another state for this purpose, than the one in which he/she lives - is punished by arrest for a term of up to six months or restriction of liberty for a term of up to three years, or deprivation of liberty for the same

<sup>&</sup>lt;sup>16</sup> Law of Ukraine "Criminal Code of Ukraine": Law of Ukraine dated April 5, 2001 No. 2341-III. Information of the Verkhovna Rada of Ukraine. (2001). Ukraine. https://zakon.rada.gov.ua/laws/show/2341-14#Text

<sup>&</sup>lt;sup>17</sup> Law of Ukraine "Criminal Code of Ukraine": Law of Ukraine dated April 5, 2001 No. 2341-III. Information of the Verkhovna Rada of Ukraine. (2001). Ukraine. https://zakon.rada.gov.ua/laws/show/2341-14#Text

term.<sup>18</sup>

In addition, the legislator made a corresponding amendment to Art. 134 of the Criminal Code of Ukraine "Illegal abortion or sterilization", i.e. forcing an abortion without the victim's voluntary consent - is punished by restriction of liberty for a term of up to five years or imprisonment for a term of up to three years, with deprivation of the right to hold certain positions or engage in certain activities on a term of up to three years or without it; Art. 152 of the Criminal Code of Ukraine "Rape"<sup>19</sup>, i.e. the commission by a male or female person of a sexual nature, associated with vaginal, anal or oral penetration into the body of another person with the use of genitals or any other object, without the voluntary consent of the victim (rape) - is punished by imprisonment for a term of three to five years; Art. 153 of the Criminal Code of Ukraine "Sexual violence", i.e. the commission of any violent acts of a sexual nature, not related to penetration into the body of another person, without the voluntary consent of the victim (sexual violence) - is punished by imprisonment for a term of up to five years.

Unfortunately, the sharp increase in violence in the family sphere is taking place against the background of the Russian-Ukrainian war and the increase in general crime in Ukraine. Moreover, not a single day passes without a report in the mass media about violence in the family sphere. And this, in turn, disorganizes the vital activities of society, harms human rights and freedoms in Ukraine.<sup>20</sup>

After Russia's February 2022 invasion, the number of reported cases of domestic violence in Ukraine initially declined as millions of people fled the fighting. But as families return to their old homes or move to new ones, the number of cases in 2023 has increased.<sup>21</sup>

During ten months of 2023, registered cases increased by almost 50% compared to the same period in 2022. The average monthly number of recorded criminal offenses is 27 more than in 2021.<sup>22</sup>

More than a dozen officials and experts working in the sector told Reuters that the increase was the result of rising stress, economic hardship, unemployment and conflict-related injuries. According to them, in the vast majority of cases, the victims are women. Growth is due to psychological stress and a lot of difficulties. Most experts and professionals in the field told Reuters that they are afraid the problem will become worse if the war continues, and will continue long after the end of the conflict due to injured soldiers returning from the front.<sup>23</sup>

<sup>&</sup>lt;sup>18</sup> Volobuieva, O. Leheza, Ye. Pervii, V. Plokhuta, Ye. Pichko, R. "Criminal and Administrative Legal Characteristics of Offenses in The Field of Countering Drug Trafficking: Insights from Ukraine." *Yustisia*. Vol 12, No 3. (2023). 262-277 <u>https://doi.org/10.20961/yustisia.v12i3.79443</u>

<sup>&</sup>lt;sup>19</sup> Law of Ukraine "Criminal Code of Ukraine": Law of Ukraine dated April 5, 2001 No. 2341-III. Information of the Verkhovna Rada of Ukraine. (2001). Ukraine. https://zakon.rada.gov.ua/laws/show/2341-14#Text

<sup>&</sup>lt;sup>20</sup> Shkuta, O., Karbovskyi, D., Pushkina, O., Potip, M., Varhuliak, O.Object and Subject of State Control in the Sphere of Legal Turnover of Narcotic Drugs, Psychotropic Substances and their Precursors in Ukraine: Administrative, Criminal and Civil-Legal Aspect. *Journal of Drug and Alcohol Research*. 2023, 12(7), 236-255 <a href="https://doi.org/10.4303/JDAR/236255">https://doi.org/10.4303/JDAR/236255</a>

<sup>&</sup>lt;sup>21</sup> Korniienko, M. Desyatnik, A. Didkivska, G. Leheza, Ye. Titarenko, O. (2023). Peculiarities of investigating criminal offenses related to illegal turnover of narcotic drugs, psychotropic substances, their analogues or precursors: criminal law aspect. *Khazanah Hukum*. Vol. 5. No. 3, 205-215 DOI: https://doi.org/10.15575/kh.v5i3.31742.

<sup>&</sup>lt;sup>22</sup> Dymko, I., Muradian, A., Manzhula, A., Rudkovskyi, O., Leheza, Ye. "Integrated approach to the development of the effectiveness function of quality control of metal products".. *Eastern European Journal of Enterprise Technologies*. 6/3 (90). (2017). 26-34. doi: 10.15587/1729-4061.2017.119500.

<sup>&</sup>lt;sup>23</sup> Golina V. V. "Some remarks and proposals regarding the criminalization of domestic violence." New legislation on prevention and combating domestic violence: materials of the international round table (September 27, 2019). Kyiv: National Academy of the Prosecutor's Office of Ukraine. (2019), 184.

#### **RESULTS AND DISCUSSIONS**

Research has shown that domestic violence, which disproportionately affects women, increases during and after war because stress levels increase, families are displaced and traumatized combatants return home.<sup>24</sup> This can lead to outbreaks of physical, psychological and sexual violence at home. This is usually not reported. Because soldiers are perceived as heroes who protect the country, there is a reluctance to criticize those who are also abusers.<sup>25</sup>

According to the soldiers' opinion, Ukrainian mental health system can handle only a small fraction of the needs, and most soldiers make the mistake of trying to handle it on their own, as they sometimes do. <sup>26</sup> The military and those who treat them say that Ukraine is just beginning to grapple with a mental health crisis that is deep and will continue for years.<sup>27</sup>

Ukrainian scientists studying domestic violence in Ukraine as a criminological problem, point out that with a qualitative interpretation of the cause-and-effect relationship with the commission of domestic violence, it is worth highlighting a criminal offense as the result of a long and acute conflict, the initiator of which was the criminal; situationally determined conflict behavior of the victim; the immoral way of life of the criminal and the victim; resolution of an intra-personal conflict by a criminal in a socially dangerous way in an objectively neutral situation.<sup>28</sup>

By the way, a domestic scientist, revealing one of the types of criminal offense of domestic violence (Article 126-1), writes that domestic violence is not an accidental fact of human destructiveness, but rather a persistent, massive, extremely dangerous a phenomenon that requires (ultra ratio) state intervention.<sup>29</sup>

Family violence by the opinion of Kapska is a form of destructive social interaction in the family, which reflects its general disadvantage and violations in the value-normative sphere of individuals.<sup>30</sup> Violence in the family is a social risk factor that causes deepening of socio-psychological and moral alienation, mutual mistrust and hostility towards other family members, brutality and cruelty in communication.<sup>31</sup>

Depending on the forms of violence in the family sphere, the legislator distinguishes:

1) physical violence – a form of domestic violence that includes slapping, kicking, pushing, pinching, biting, as well as illegal deprivation of liberty, beatings, biting, inflicting bodily injuries of varying degrees of severity, leaving in danger, not providing help to a person who is in a life-threatening condition, causes death, commits other crimes of a violent nature;

the-light-of-adoption-of-the-new-code-of-administrative-proced-8634.html

<sup>&</sup>lt;sup>24</sup> Korneyev M., Zolotukhina L., Hryhorash T. LehezaYe. & Hryhorash O., "The development of small business as a source of formation of local budget revenues in Ukraine. Investment." *Management and Financial Innovations*, 15 (1) (2018), 132-140. https://doi.org/10.21511/imfi.15(1).2018.12

<sup>&</sup>lt;sup>25</sup> Williams J. "This War Made Him a Monster.' Ukrainian Women Fear the Return of Their Partners". (2023) http://surl.li/oadvx.

<sup>&</sup>lt;sup>26</sup> Leheza, Ye. O., Filatov, V., Varava, V., Halunko, V., Kartsyhin, D. "Scientific and practical analysis of administrative jurisdiction in the light of adoption of the new code of administrative procedure of Ukraine." *Journal of Legal, Ethical and Regulatory Issues.* Vol. 22, Issue 5. (2019). 1-8. Retrieved from https://www.abacademies.org/articles/scientific-and-practical-analysis-of-administrative-jurisdiction-in-

<sup>&</sup>lt;sup>27</sup> Tung N. "The Hidden Trauma of Ukraine's Soldiers." (2023). http://surl.li/oaecb.

<sup>&</sup>lt;sup>28</sup> Leheza, Y., Shcherbyna, Bogdan. Leheza, Yulia. Pushkina, Olena & Marchenko O. (2023). "Features of Applying the Right to Suspension or Complete/ Partial Refusal to Fulfill a Duty in Case of Non-Fulfilment of the Counter Duty by the Other Party According to the Civil Legislation of Ukraine." *Revista Jurídica Portucalense*, 340–359. Retrieved from https://revistas.rcaap.pt/juridica/article/view/29662

<sup>&</sup>lt;sup>29</sup> Golovkin B. M. Causality in the system of crime determination." *Theory and practice of jurisprudence*. 1(5) (2014), 1–9. <u>https://doi.org/10.21564/2225-6555.2014.1.63091</u>

<sup>&</sup>lt;sup>30</sup> Kapska A. Y. "Social work: technological aspect." Kyiv: DCSSM. (2004), 246.

<sup>&</sup>lt;sup>31</sup> Alpa Parmar, Alice Sampson, "Evaluating Domestic Violence Initiatives." *The British Journal of Criminology*. 47 (4) (2007), 671–691. https://doi.org/10.1093/bjc/azl094

2) psychological violence – a form of domestic violence that includes verbal insults, threats, in particular against third parties, humiliation, harassment, intimidation, other actions aimed at limiting a person's will, control in the reproductive sphere, if such actions or inaction caused the victim fears for their safety or the safety of third parties, emotional insecurity, inability to protect themselves or harmed the mental health of a person<sup>32</sup>;

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

4) sexual violence – a form of domestic violence that includes any acts of a sexual nature committed against an adult without their consent or against a child regardless of their consent, or in the presence of a child, coercion to an act of a sexual nature with a third person, as well as other offenses against a person's sexual freedom or sexual integrity, in particular committed against a child or in his presence.<sup>33</sup>

According to the criterion of the influence of the motivational component, the following kind of domestic violence are distinguished: impulsive violence as a direct reaction to a situation caused by emotional intemperance; instrumental violence used as a means of achieving a criminal goal; "violence for the sake of violence", which is an end in itself and not a means to achieve goals; forced violence is the result of non-fulfillment of the requirements of a certain subject; violence as a manifestation of individual or group solidarity, which realizes the desire to preserve or increase one's prestige in the group; "aggressive drive" caused by obstacles in the purposeful actions of the subject or destruction of his/her self-esteem; violence due to emotional tension, provoked by a complex of factors that have a harmful effect on the subject; "non-obvious" acts of violence are those that do not have the purpose of causing harm and therefore are not always reflected by the subject of violence.<sup>34</sup>

Among the reasons for committing violence in the family sphere, the following ones should be singled out: the personality of the criminal, his moral and volitional qualities, which under the influence of external social factors generate readiness and determination to commit a criminal offense; criminogenic deformation of social consciousness: 1) antisocial views – evaluative judgments (stereotypes of thinking) of a significant part of people expressing an acceptable attitude towards criminal forms of satisfying everyday needs and interests; 2) antisocial customs and traditions – unwritten rules of behavior inherited from previous generations, determined by the norm of life and activity, establish the informal order of relations between people in various spheres; 3) antisocial attitudes are a collective tendency to perceive events, phenomena, norms, values in a biased manner, developed on the basis of negative social experience, and the associated increased willingness to violate legal prescriptions and criminal law prohibitions<sup>35</sup>; 4) mental disorders (psychosis, schizophrenia, mental retardation). Under the influence of psychological disorders, offenders' perception of reality changes and they displace

<sup>&</sup>lt;sup>32</sup> Dymko I., Muradian A., Manzhula A., Rudkovskyi O., & LehezaYe. "Integrated approach to the development of the effectiveness function of quality control of metal products." *Eastern European Journal of Enterprise Technologies.* 6/3 (90) (2017), 26-34. https://doi.org/10.15587/1729-4061.2017.119500.

<sup>&</sup>lt;sup>33</sup> Law of Ukraine "On preventing and countering domestic violence": Law of Ukraine dated December 7, 2017. No 2229-VII. Information of the Verkhovna Rada of Ukraine. (2017). Ukraine.

<sup>&</sup>lt;sup>34</sup> Trubavina I. M. "Social and pedagogical work with a dysfunctional family." Kyiv: DCSSM. (2002), 132.

<sup>&</sup>lt;sup>35</sup> Korniienko, M. Desyatnik, A. Didkivska, G. Leheza, Ye. Titarenko, O. "Peculiarities of investigating criminal offenses related to illegal turnover of narcotic drugs, psychotropic substances, their analogues or precursors: criminal law aspect." *Khazanah Hukum*, 5 (3) (2023), 205-215 https://doi.org/10.15575/kh.v5i3.31742

their impulses of aggression on their partners<sup>36</sup>; 5) jealousy is a complex of experiences in case of actual or suspected betrayal of a loved one, characterized by a complex psychological structure: typical and very diverse emotional reactions and states (envy, hatred, anxiety, anger, despair, thirst for revenge, passion), doubts and suspicions, complex manifestations in intellectual and volitional spheres, multifaceted forms of behavior, social danger; 6) the priority of material needs over spiritual values, social inequality, devaluation of the partner if he/she has less financial opportunities, blackmail on a material basis, lack of funds to maintain a certain image and standard of living, unsatisfactory living conditions; 7) legal and moral nihilism; 8) refutation of the importance of the institution of the family; 9) mentality - a set of mental, intellectual, ideological, religious, aesthetic features of the thinking of the people of a certain state. Patriarchy is characteristic of most Ukrainian families, the woman is completely or partially dependent on the man; 10) depressive states; 11) alcohol and drug abuse; 12) difference in interests, life orientations and aspirations of spouses, incompatibility of partners; 13) difference in the outlook and worldview of the spouses; 14) shortcomings in the work of the police, reluctance to participate in the resolution of family conflicts; 15) serious illness and its consequences in one of the spouses; 16) the spread of the cult of violence in television, on the Internet; 17) bad upbringing or its absence, a disappointing example of parents, in families where domestic crime takes place; 18) weakening the influence of religion.<sup>37</sup>

The conditions for committing violence in the family sphere include: an unfavorable family environment in which domestic violence prevails and which serves as a primary breeding ground for a future offender; defects of family education; corruption of children from disadvantaged families at the stage of personality formation; poverty, the poor; lack of normal conditions of existence; stratification of society; weakening of the family institution; devaluation of the role of women; the cultivation of violence on the Internet and video games.<sup>38</sup>

It is also worth to analyze the opinions of representatives of foreign criminological science regarding the causes and conditions of crime in the family sphere. Thus, the following determinants of violence in the family sphere are distinguished: 1) the impact of poverty and neighborhood conditions. Children who grow up in poor families are at increased risk for a variety of negative developmental outcomes, including conduct problems and delinquency. Past research indicates that poverty tends to have a devastating effect on the quality of parenting, and this is one of the main reasons that poverty increases a child's chances of deviant behavior. Several studies have shown that economically stressed parents provide less support and monitoring and higher levels of inconsistent and harsh discipline than parents who are more affluent<sup>39</sup>; 2) depression. Depressed parents are more likely to be dissatisfied with social relationships, including those with their children. Several studies have shown, for

<sup>&</sup>lt;sup>36</sup> Leheza, Ye. Shcherbyna, B. Leheza, Yu. Pushkina, O. & Marchenko, O. "Features of Applying the Right to Suspension or Complete/ Partial Refusal to Fulfill a Duty in Case of Non-Fulfilment of the Counter Duty by the Other Party According to the Civil Legislation of Ukraine."*Revista Jurídica Portucalense*, N° Especial (2023) - Mechanisms of Legal Protection in Civil Law (2023), 340–359 https://doi.org/10.34625/issn.2183-2705(ne)2023.ic-17

<sup>&</sup>lt;sup>37</sup> Buriak K. M. "Determinants of domestic crime. Bulletin of the National Technical University of Ukraine". *Political Science. Sociology. Law*, 1(57) (2023), 175–181. https://doi.org/10.20535/2308-5053.2023.1(57).280823. See, Anwar Hafidzi, "Dampak Dari Penetapan UU Nomor 26 Tahun 2000 Terhadap Kejahatan Kemanusiaan Dan Genosida Di Indonesia," *Syariah Jurnal Hukum Dan Pemikiran* 15, no. 2 (2016).

<sup>&</sup>lt;sup>38</sup> Buriak K. M. "Latency of domestic crime: causes and directions of prevention." Norwegian Journal of development of the International Science. 51 (2020), 3–7. <u>https://doi.org/</u>10.24412/3453-9875-2020-51-3-3-7.

<sup>&</sup>lt;sup>39</sup> Leheza, Yevhen. Pisotska, Karina. Dubenko, Oleksandr. Dakhno, Oleksandr. Sotskyi, Artur. 2022. the essence of the principles of ukrainian law in modern jurisprudence. *revista jurídica portucalense*, december, 342-363. doi: https://doi.org/10.34625/issn.2183-2705(32)2022.ic-15

example, that depressed mothers tend to perceive their children as difficult, and such parents are more prone to strict or punitive parenting<sup>40</sup>; 3) cruel parenting. Men who are victims of abusive parenting methods are at increased risk of intimate partner violence and sexual coercion ("intimate terrorism"); 4) entrenchment of antisocial behavior. Unencumbered by parental control, indifferent to school, and influenced by a deviant peer group, antisocial adolescents move from oppositional/defiant behavior to committing more serious offenses. Therefore, most antisocial children grow up to be criminals<sup>41</sup>; 5) violation of the family structure. The increase in child and adolescent problems parallels the increase in divorce, cohabitation, and births to never-married mothers that have occurred in recent decade.<sup>42</sup>

To prevent criminal offenses in the family sphere, in our opinion, the following should be done: carry out informational and explanatory work, convincing of the unacceptability of violence in the family and the need to counteract such violence<sup>43</sup>; provide comprehensive service provision, inform and train providers of medical and sanitary services to comprehensively and sensitively respond to the needs of survivors of violence; prevent relapses of violence due to early detection of victims of violence, sending them to the appropriate services and providing them with the necessary support; promote gender-based norms in life skills training and disseminate comprehensive sexuality education programs for young people; accumulate factual data on effective methods of work, as well as on the scale of the problem by conducting surveys and questionnaires of the population or including the topic of domestic violence in general population demographic and health surveys; establish a strict sanction for committing domestic violence with mandatory financial compensation.<sup>44</sup>

Therefore, the family is the basis of building a powerful nation and a legal state. Due to the invasion of the Russian Federation on the territory of Ukraine, Ukrainian families were challenged: involvement of men in the defense of the homeland, forced emigration of women with children, changes in essential living conditions, these and many other factors provoke the generation of crime in the family sphere.

## CONCLUSION

Violence in the family sphere is a criminological phenomenon, which is characterized by an integrated phenomenon that occurs in the family environment, involves physical, verbal, moral and economic insults and psychological coercion to intimidate and gain power of some family members over others, as well as the perpetrator's actions or the perpetrator of a certain type of criminal offense. The search for ways to overcome this phenomenon and the proposal of measures to prevent criminal offenses in the family sphere are fundamental for building a model of a healthy family, this priority is basic for integration into the European family.

<sup>&</sup>lt;sup>40</sup> Simons L. G., Burt C. H., & Simons R. L. "A test of explanations for the effect of harsh parenting on the perpetration of dating violence and sexual coercion among college males. *Violence and Victims*, 23 (2008), 66–82. https://doi.org/10.1891/0886-6708.23.1.66.

<sup>&</sup>lt;sup>41</sup> Burt C. H., Simons R. L., & Simons L. G. "A longitudinal test of the effects of parenting and the stability of self control: Negative evidence for the general theory of crime." *Criminology*, 44 (2006), 353–396

<sup>&</sup>lt;sup>42</sup> Leheza, Ye. Shablystyi, V. Aristova, I. V. Kravchenko, I. A. Korniakova, T. (2023). "Foreign Experience in Legal Regulation of Combating Crime in the Sphere of Trafficking of Narcotic Drugs, Psychotropic Substances, their Analogues and Precursors: Administrative and Criminal Aspect." *Journal of Drug and Alcohol Research*. Vol. 12. No. 4, 1-8. DOI: https://doi.org/10.4303/JDAR/236240

<sup>&</sup>lt;sup>43</sup> Andrusiak I., Khomyshyn I., Pankratova V., Shulhan I., Perib I. "Protection of victims of domestic violence in the European Union: a comparative perspective." *Lex Humana*, 16 (1) (2024), 67–83.

<sup>&</sup>lt;sup>44</sup> Shevchenko S. "The concept of legal unrest related to domestic violence and the relationship with the concept of domestic violence." *Scientific Bulletin of the Dnipropetrovsk State University of Internal Affairs*. Special issue 2 (2022), 341–346. https://doi.org/10.31733/2078-3566-2022-6-341-346.

The criminological model of counteraction and prevention of violence in the family sphere is scientific knowledge about the geography, dynamics, level, quantitative and qualitative indicators of the perpetration of a criminal offense in the family sphere by an offender. The algorithm of such modeling includes: 1) monitoring of the criminological situation; setting goals, tasks and ways (methods) of solving problems of violence in the family sphere, on the basis of efficiency, expediency, effectiveness, preliminary approval and implementation of the adopted decision (decisions) in law-making and lawenforcement practice; 2) the development of the state concept of counteraction and prevention of violence in the family sphere in Ukraine, which is based on international standards for the protection of human rights and freedoms, tested by domestic and foreign practice; 3) cooperation of the subjects of combating and preventing criminal offenses in the family sphere, with the development and introduction into the activities of authorized institutions of the security sector of a complex of scientifically based legal, informational and analytical, cultural, educational and behavioural tools (solutions, methods, recommendations) aimed at monitoring crime in the family sphere; 4) determination of directions for the implementation of the best global models of family protection and foreign experience in preventing criminal offenses in the family sphere, taking into account which will contribute to the minimization of family and domestic violence, the application of a restraining order; 5) ways of improving the system of counteraction and prevention of criminal offenses committed by an offender in the family sphere, at the general social, special criminological, individual preventive and victimological levels, including taking into account the legal regime of martial law, internal displacement and marginalization of the population.

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