

Monitoring

Response of the Justice System to Domestic and Gender-Based Violence

2020 — 2021

**Monitoring
Response of the Justice System
to Domestic and Gender-Based
Violence: 2020-2021**

Kyiv 2022

Authors:

Y.V.Anosova PhD, Dr. A.Kapur (Dr. Amrita Kapur), M.M. Legenka, Doctor of Philosophy in Law, K.V. Cherepakha, with contributions from K.A.Borozdina, A.O.Kryvuliak, D.I. Pylio

Gratitude:

Civil Society Organization “La Strada-Ukraine” and Geneva Centre for Security Sector in Governance (DCAF) express their gratitude to the Office of the Government Commissioner for Gender Policy for its support in conducting this monitoring.



This publication was produced with the financial support of the European Union
in the framework of the EU Project Pravo-Justice.

Its contents are the sole responsibility of CSO “La Strada-Ukraine”
and do not necessarily reflect the views of the European Union.

INTRODUCTION.....	5
OVERVIEW OF THE AMENDMENTS IN THE LEGAL FRAMEWORK RELATED TO RESPONDING TO DOMESTIC AND GENDER-BASED VIOLENCE IN UKRAINE.....	7
OVERVIEW OF THE STATISTICS ON COMBATING DOMESTIC AND GENDER-BASED VIOLENCE (KEY RESPONSE SUBJECTS).....	14
ANALYSIS OF COURT DECISIONS UNDER ART. 173-2 OF THE CODE OF ADMINISTRATIVE OFFENCES ON COMMITTING DOMESTIC VIOLENCE, GENDER-BASED VIOLENCE, VIOLATION OF THE EMERGENCY BARRING ORDER OR FAILURE TO NOTIFY THE PLACE OF TEMPORARY STAY	25
ANALYSIS OF THE COURT JUDGEMENTS UNDER ART. 126-1 OF THE CRIMINAL CODE OF UKRAINE “DOMESTIC VIOLENCE”.....	30
ANALYSIS OF THE JUDICIAL PRACTICE IN ISSUING AND EXTENDING THE TERMS OF RESTRAINING ORDER WITHIN CIVIL PROCEEDINGS.....	32
ANALYSIS OF THE RESULT OF SURVEY CONDUCTED IN THE NATIONAL HOTLINE ON PREVENTION OF DOMESTIC VIOLENCE, HUMAN TRAFFICKING AND GENDER DISCRIMINATION (NHL) ABOUT THEIR EXPERIENCE OF REPORTING DOMESTIC VIOLENCE TO RESPONSE SUBJECTS.....	35
Results of the survey conducted among NHL clients affected by domestic violence about their experience of reporting to police.....	37
COVID-19 effect on the response to domestic and gender-based violence.....	40
Survey «State actors’ response to the cases of domestic violence during crisis (COVID-19, in particular) and recommendations for improvements»	42
Recommendations of the survey	50
STRENGTHENING COMPETENCIES OF THE JUDICIARY SPECIALISTS.....	52
OVERVIEW OF THE IMPLEMENTATION OF RECOMMENDATIONS OF THE MONITORING REPORT FOR 2018-2020	56

INTRODUCTION

Response to domestic and gender-based violence has become a great focus within the last two years, both nationally, and internationally. Adoption of the new legal acts regulating this area, court practice development, emerging new challenges caused by COVID-19 pandemic, training for justice specialists and raising awareness of the risks of domestic and gender-based violence to the public – all those factors have significant influence on the justice system in the area.

Assessment of the capacities of the Ukrainian criminal justice system to ensure obligations linked to the ratification of Istanbul Convention “Criminal justice practice and violence against women” presented by the CSO “La Strada-Ukraine” and Geneva Centre for Security Sector in Governance (DCAF) in 2017¹ has become an important step towards better understanding of response of the Ukrainian criminal justice system to the cases of domestic violence and violence against women, identifying challenges which needed to be addressed and outlining the further strengthening capacities of the respective subjects. Results of the analysis ensured background for identifying key challenges and needs in strengthening institutional and individual capacities of the specialists in the area, as well as deciding on further steps. Findings of this research were used in justification of ECHR’s decision in case of *Levchuk vs Ukraine*² – first decision for Ukraine on domestic violence case. Institutionalization of the training courses for specialists of the criminal justice – judges and prosecutors – on specific issues of gender-based violence cases has become a practical result of research recommendations. The courses mentioned were designed, piloted and launched in cooperation with the key training institutions for the related specialists – National School of Judges of Ukraine and Prosecutors’ Training Centre (former National Prosecution Academy of Ukraine). Regular monitoring and analyses of changes made in the system of responding to domestic and gender-based violence, first of all in the justice sector, allows tracking the dynamics of changes in the area in Ukraine.

Strengthening the capacity of the criminal justice system and improvement of effectiveness of its response is a comprehensive continuous process directly promoting the culture of accountability and intolerance to the domestic and gender-based violence among public.

Monitoring of such activity, new tendencies, identification of problems, positive achievements, preparation of results etc. provide the opportunities to track and assess changes happening in the area, and help raising the effectiveness of the criminal justice system in countering domestic and gender-based violence.

1 Criminal justice practice and violence against women. Assessment of the readiness of the Ukrainian criminal justice system to implement principles of the Istanbul Convention/ A.Laferte, K. Levchenko, K. Cherepakha, M.Legenka, M.Socquet-Juglard. Editorial contribution by Heather Huntanen./ DCAF, CSO “La Strada-Ukraine”. Kyiv: Agency Ukraine, 2017.

2 <https://rm.coe.int/case-of-levchuk-v-ukraine-in-ukrainian-upd/16809fdc12>

These elements became an important part of the EU Project “PRAVO-Justice” aimed at supporting reforms in the justice sector in Ukraine, sub-component 2.6 “Strengthening the response of the justice sector to the cases of domestic violence and violence against women” implemented by the civil society organization “La Strada-Ukraine” and Geneva Centre for Security Sector in Governance (DCAF) in 2018-2021.

Current publication finalizes the number of annual monitoring reports prepared within the Project³ in order to analyse the situation with response of the criminal justice system to the cases of domestic and gender-based violence, and gives the possibility to see the dynamic of this process. Within the period of the Project implementation national law in the area was significantly amended. Thus, the monitoring aimed at researching the amendments and their influence on general response to domestic and gender-based violence in Ukraine. Analysis of the processes and court practice, challenges of the response system and activities of the respective agencies, particularly during COVID-19, analysis of tendencies, achievements and perspective areas for further improvement of justice system, as well as corresponding recommendations were included to this report.

Analysis of the court decisions under art. 173-2 of the Code of Administrative Offences and art. 126-1 of the Criminal Code of Ukraine, court practice on application of restrictive measures, as well as analysis of statistics and information from open sources of the National Police, prosecution, State court administration, system of the secondary free legal aid and other related subjects in the area of countering domestic and gender-based violence.

The report also includes statistics and results of specific surveys conducted on the National Hotline on Prevention of Domestic Violence, Human Trafficking and Gender Discrimination, particularly about the experience of reports made to the corresponding response agencies by the victims of domestic or gender-based violence.

Representatives of the criminal justice system were introduced with the results and recommendations of the analysis, which appeared to be an important element of this activity. Results of the monitoring and its recommendations will be useful in practice of the specialists of the criminal justice system, in training programmes, courses and workshops for different specialists related to countering domestic and gender-based violence, in development of informational and methodical materials, ensuring protection of victims, further research in the area, as well as further development and strengthening of the effectiveness of response system to the cases of domestic and gender-based violence.

Results of this activity confirm the need for regular monitoring, and importance of long-term initiatives to ensure transformation of understanding and approaches to responding to domestic and gender-based violence.

3 «Monitoring of the situation of the justice system’s response to domestic violence and violence against women: 2018», «Monitoring response of the justice system to domestic and gender-based violence: 2019».

OVERVIEW OF THE AMENDMENTS IN THE LEGAL FRAMEWORK RELATED TO RESPONDING TO DOMESTIC AND GENDER-BASED VIOLENCE IN UKRAINE

In late 2017 national legislation experienced significant changes in approaches to responding to domestic and gender-based violence, which had big influence on the system and practice in the area, activity of corresponding subjects and protection of victims. Development of legal regulation, approaches and practice continues.

Detailed analysis of the national legal framework in the area of response to the cases of domestic and gender-based violence was included to the monitoring reports in 2018 and 2019⁴. Therefore, only the key documents influencing the activity of the subjects responsible for responding to the cases of domestic and gender-based violence, especially in the criminal justice system, and ensuring protection of victims, adopted in this period are mentioned.

- In December 2017 Verkhovna Rada made amendments to the Criminal and Criminal Procedural Codes of Ukraine. Particularly, the Criminal Code of Ukraine received the new article 126.1 “Domestic violence”, which sets out punishment for domestic violence, introduces new clauses aimed at stronger punishment for the offenders and at ensuring protection for victims. This all demonstrates positive transformations of state’s approaches to this problem. Such amendments were frozen until January 2019 in order to train law enforcement, prosecutors and judges.
- The Law of Ukraine “Prevention and combating domestic violence” adopted by Verkhovna Rada in December 2017, came into force on 1 January 2018. It stipulated introduction of important organizational and legal grounds for prevention and combating domestic violence, and confirmed obligations taken by the state to implement policy on protecting rights and interests of survivors of such violence.

A number of new terms were introduced, the number of individuals covered by the law increased, new subjects responsible for prevention and combating domestic violence added to the list – among them, free secondary legal aid centres, courts, prosecution and authorized probation agencies. Also, a number of specific measures against domestic violence were adopted.

By adopting this law Ukraine made big step towards harmonizing its law in the area of combating domestic and gender-based violence with the international standards. As of February 2022, Ukraine has not yet ratified the Council of Europe Convention on preventing and combating violence against women and domestic

⁴ «Monitoring of the situation of the justice system’s response to domestic violence and violence against women: 2018», pages 6-15. And «Monitoring of justice system response to domestic and gender-based violence: 2019», pages 6-11.

violence (Istanbul Convention), signed in 2011. Regardless of active advocacy initiatives and support statements from the state leaders, active counteraction was seen from the side of anti-gender movements, which contradicted the principles of democratic society and equal rights and opportunities for women and men.

Although the adoption of the Law is clearly important, it does not fully cover the scope of the Convention and leaves unaddressed some serious challenges to ensure the protection, first of all, of women who suffer from gender-based violence. In particular, the Istanbul Convention sets out the liability for harassment, which is currently absent in Ukrainian legislation, and separate liability for sexual harassment. In part, sexual harassment is covered by the concept of sexual violence, for the commission of which criminal liability is assumed, but, nevertheless, this norm is not specific and does not affect a number of acts.

This also applies to the right of violence survivors for compensation from the state. Thus, the second part of the Article 30 outlines the grounds for providing state compensation (which does not prevent the parties from demanding the return of the provided compensation from the offender, provided that the victim's safety is properly ensured). At the same time, Ukraine does not provide compensation from state funds to victims of violent crimes, including domestic and gender-based violence. The Convention establishes minimum and maximum standards of the combating violence by the states, in particular standards for providing services to victims, which are currently not applied in the practice of Ukraine.

Ratification of the Convention and further integration of its standards into national law would allow strengthening the protection of Ukrainian citizens abroad, which is still the challenging issue for our country. According to the paragraph 2 of the article 44 of the Convention “Jurisdiction”, «the Parties shall endeavour to take the necessary legislative or other measures to establish jurisdiction over any offence established in accordance with this Convention where the offence is committed against one of their nationals or a person who has her or his habitual residence in their territory». Such crimes as sexual violence and rape, forced marriage, genital mutilation, forced abortion and sterilization are to be criminalized regardless of the location they were committed. In addition, for countries that have ratified the Convention, criminal prosecution can be initiated regardless of the report from the victim of the offense or the provision of information by the state in whose territory the offense was committed.⁵

A number of legal acts were designed and adopted aimed at implementation of the Law of Ukraine on “Preventing and Combating Domestic Violence”. Among them – “Procedure of cooperation between subjects responsible for preventing and combating domestic and gender-based violence” approved by the Decree of

5 «What we have to say to those who doubt the ratification of the Istanbul Convention? Council of Europe Convention on Prevention of violence against women and gender-based violence: Asked & Answered», K, 2021, <https://la-strada.org.ua/download/shho-skazaty-tym-hto-maye-sumniviy-neobhidnosti-ratyfikatsiyi-stambulskoyi-konventsii>

the Cabinet of Ministers of Ukraine (№ 658 dated 22.08. 2018), “Procedure of issuing an emergency barring order against the offender by the National Police units», approved by the Order of the Ministry of Interior of Ukraine (№ 654 dated 01.08.2018) etc. More detailed analysis of the corresponding legal acts is given in the previous monitoring reports published within the Project⁶.

Decree of the President of Ukraine on «Emergency measures on preventing and combating domestic violence, gender-based violence and protecting victims» № 398/2020 (21 September 2020). It includes the list of measures aimed at improvement of legislation and legal practice in the area of preventing and combating domestic violence, which should be included to the detailed plan of actions to ensure comprehensive integrated approach to combating domestic violence developed by the Cabinet of Ministers of Ukraine.

Among other objectives set out for the Cabinet of Ministers by this Decree, there is task to ensure development and submission to Verkhovna Rada of Ukraine within the six months period a number of draft laws aimed at “establishing liability for stalking, including stalking via means of electronic communication, as a type of gender-based violence”. Establishing the responsibility for stalking should become an important element of strengthening the protection of victims of domestic and gender-based violence. This paragraph will be included to the Plan of emergency measures on preventing and combating domestic violence and gender-based violence, and protecting victims (to implement the Decree adopted by the CMU on 21.04.2021 № 361-p). As of February 2022, this draft law has not yet been developed and submitted.

A significant part of the tasks set forth in the Decree concerns the protection of children who have suffered from domestic violence (for example, improving the procedure for receiving and considering applications and reports about domestic violence against children and with the participation of children, identifying children who have suffered from domestic violence, as well as organizing assistance and protection for them; providing additional procedural guarantees for minors during their interrogation, interrogation during criminal proceedings, based on the best international practices, in particular on the "Barnahus" model, etc.). Today, strengthening the protection of child witnesses, and therefore victims, in situations of domestic violence is an extremely urgent issue, as practice, in particular judicial practice, shows that in such situations children remain practically "invisible" and unprotected.

- Plan of actions on the implementation of Ukraine’s obligations taken within the international initiative “Biarritz Partnership” for gender equality (Decree of the CMU from 16 December 2020 № 1578-p). Ukraine undertakes commitments in five areas: development of a barrier-free and gender-sensitive public space, friendly to families with children and groups of people with reduced mobility; ensuring the principles of equality between women and men in education;

⁶ Monitoring of the situation of the justice system’s response to domestic violence and violence against women: 2018» https://www.srji.org/upload/medialibrary/90f/Monitoring_web_final1.pdf «Monitoring response of the justice system to domestic and gender-based violence: 2019». <https://la-strada.org.ua/download/monitoryng-sytuatsiyi-reaguvannya-systemy-pravosuddya-2019>

prevention of domestic and gender-based violence; reducing the salary gap between women and men; reforming legal framework on social leaves to take care of children. Among the measures aimed at preventing domestic and gender-based violence – ensuring mechanism of legal protection, particularly through free legal aid in accordance with the Law of Ukraine “On free legal aid”, ensuring effective operation of the 1547 hotline to receive calls and reports about cases of violence, and building the network of shelters for the victims.

- State social programme on preventing and combating domestic and gender-based violence till 2025 (decree of the CMU from 24.02.2021 № 145). This Programme is aimed at improving the mechanism of preventing and combating domestic and gender-based violence during the process of decentralization with regards to the international standards. This document is comprehensive and it includes the following chapters: I. Prevention of domestic violence. Elimination of negative stereotypes in Ukrainian society and promoting intolerance to violent behaviour. II. Responding to the cases of domestic and gender-based violence. Building new system of response to domestic violence. III. Ensuring access to the quality of necessary social services to victims of domestic and gender-based violence. IV. Appropriate investigation of cases of domestic violence, bringing offenders to justice and correcting their behaviour.

The objectives of the Program include increasing the level of professional competence of subjects responsible for prevention and combating domestic and gender-based violence, in particular with regard to ensuring the protection of children affected by domestic violence. Unfortunately, practice shows that this aspect still remains problematic - children who are witnesses and/or victims of domestic violence very often remain unidentified by relevant actors, in particular by representatives of the criminal justice system.

The program provides training for judges, prosecutors, lawyers, and investigators on the implementation of legal norms in the interests of a child who has become a witness or victim of violence; provision of mandatory special training of investigators, inquirers who conduct pre-trial investigation, and prosecutors who supervise compliance with laws during pre-trial investigation in the form of procedural guidance in proceedings in which a child is a participant; training of employees of territorial communities on issues of interagency response to cases of child abuse; informing children, their parents, other legal representatives about children's rights, measures and services they can use in each territorial community; introduction of tools for assessing the risks of a repeat offense for planning social and educational work with children, etc. Another part of the measures is aimed at improving the functioning of those areas where currently child victims are not sufficiently identified and, accordingly, do not receive the same level of protection as adult victims, or those areas where work with child victims requires a special approach compared to adult victims. It is about the access of affected children to justice and other mechanisms of protection and provision of services, in particular ensuring children's access to free secondary legal aid with the involvement of a lawyer; ensuring an individual approach to

questioning children; ensuring proper conditions for conducting court hearings in a child-friendly environment, etc.

Another important aspect of the Program is the determination of specific tasks that are set before the territorial communities when they perform the functions of coordinating the assistance provided to the affected persons. This is an important aspect provided that it is the territorial communities which as a result of decentralization are entrusted with the primary task of identifying the needs of people living in the community, regarding specialized services for victims of domestic violence and, accordingly, creating specialized support services. Examples of such tasks, which are reflected in the Program, are the identification of the needs of the territorial community for social services in order to prevent violence, the planning of social services for the affected persons in accordance with the needs assessed, assessment of funding needs; the use of social ordering of social services for affected persons as one of the mechanisms for providing services to such persons; identification of needs for specialized support services for affected persons and setting such services; inclusion of measures aimed at preventing and countering domestic violence and/or gender-based violence into the programs of communities' socio-economic development; taking measures to provide territorial communities with specialists in social work, psychologists, specialists to identify individuals/families who are in difficult life circumstances; expanding access to primary medical care services, mental health care services for victims of rape, physical and/or sexual violence, etc.

- Decree of the Cabinet of Ministers of Ukraine on “Approval of the Procedure and conditions for subventions from the state budget to local budgets in 2021 to set the network of specialized support services for victims of domestic and/or gender-based violence” (№ 398 from 21 April 2021). This is an important decision made by the state to develop a network of specialized support services for victims of gender-based violence. In order to improve access of victims to quality and timely assistance in 2021 the Government approved 274,2 million UAH subvention from the state budget to the local budgets allocated for creating the network of specialized support services, day centres, counselling services, purchasing cars for mobile teams at shelters. 28 shelters, 39 day centres, 58 counselling services and 40 mobile teams were planned to be set from the subvention. The work at local communities continues⁷. At the same time mandatory monitoring should be conducted in order to control spending of funds and effective operation of the services created.

- Law of Ukraine on “Amendments to the Code of Ukraine of Administrative Offences on stronger punishment for domestic and gender-based violence” (01.07.2021). One of the key provisions here is the establishment of the administrative liability on general grounds for individuals against whom only disciplinary measures were taken earlier. Among them police officers of the authorized National Police units, who are listed in the list of subjects responsible

⁷ According to the Ministry of Social Policy, as of the beginning of October 2021, in 80% of communities that received funds from the state budget subvention to local budgets for the creation of a network of specialized support services for persons affected by domestic violence and/or gender-based violence, relevant agreements have been concluded for the purpose of implementing the subvention

for the preventing and combating domestic violence under the Law of Ukraine on “Preventing and combating domestic violence”. In accordance with Article 15, it also includes military personnel, conscripts and reservists during assembly, members of the rank and file of the State Criminal Enforcement Service of Ukraine, the Civil Protection Service and the State Service for Special Communications and Information Protection of Ukraine.

Experts have repeatedly emphasized the need to strengthen the protection of victims of domestic and gender-based violence and the punishment for violence for the offenders from among military personnel and persons whose activities are regulated by disciplinary statutes, in particular within this Project. Analysis of statistics for 2018-2019 showed that only three police officers and no military personnel were disciplined for domestic and gender-based violence. At the same time, the analysis of reports from victims of domestic violence, in particular to the National Hotline for the Prevention of Domestic Violence, Human Trafficking and Gender Discrimination, shows the problem to be extremely urgent.

Thus, adoption of this Law aims at improvement of response to domestic and gender-based violence committed by military staff, police officers and other individuals whose actions are covered by disciplinary statutes, and at strengthening protection guarantees for their family members.

The Law also provides for the possibility of hearing administrative offence cases under Art. 173-2 of the Code of Administrative Offences, in the absence of the offender, if he/she has been properly notified of the proceedings and there are no valid reasons for his/her non-appearance at the court session. This norm will allow to reduce the number of cases when the offender avoided responsibility for the offense committed due to the expiration of the statute of limitations, because he did not appear in court, and as a result - to respond more effectively to cases of domestic violence.

Moreover, the following amendments were made to the art. 262 of the Code on Administrative Offences: words “committing family violence” changed to “committing domestic violence, gender-based violence, failure to comply with an emergency barring order or failure to notify about the place of temporary stay”.

There were other important initiatives in the area of preventing and combating domestic and gender-based violence which took part in 2020-2021.

For instance, the Committee for coordination of cooperation between executive agencies ensuring equal rights and opportunities of women and men (Decree of the Cabinet of Ministers of Ukraine on 2 September 2020 № 784). The Committee is a temporary consultative and advisory body of the CMU, founded to ensure coordinated actions of the executive authorities on the implementation of a unified state policy aimed at achieving equal rights and opportunities for women and men in all spheres of society. Among the Committee’s objectives are: promoting coordination of actions of executive authorities in the area of ensuring gender equality; preparing proposals on developing and implementation of state

gender policy; identifying ways, mechanisms and methods of solving the challenging issues of the implementation of the state gender policy; improvement of legal framework on coordination, development and implementation of state gender policy etc.

- Another step of creating single approaches and practices of implementation of the Law of Ukraine on “Preventing and Combating Domestic Violence”, understanding and interpretation of the norms in one context became a presentation of the Scientific and Practical comments to the Law of Ukraine on “Preventing and Combating Domestic Violence” initiated by the Ministry of Interior, National Academy of Interior of Ukraine, Government Commissioner for Gender Policy with involvement of the specialists from the National Academy of Prosecution of Ukraine, CSO “La Strada-Ukraine”, EU Council mission, and scientists and practitioners working in the area of preventing and combating domestic and gender-based violence (2020).
- The first decision of the European Court of Human Rights (ECHR) on domestic violence regarding Ukraine was an important event that witnessed the expansion of access to justice for victims of domestic violence. Inadequate response of the state authorities to cases related to domestic violence led to the fact that Ukrainian citizen I. M. Levchuk turned to the European Court of Human Rights to protect her rights and interests. On September 3, 2020, the ECHR made a decision in the case "Levchuk vs Ukraine" (application No. 17496/19) and recognized a violation of the complainant's right to respect for private and family life (Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms).

OVERVIEW OF THE STATISTICS ON COMBATING DOMESTIC AND GENDER-BASED VIOLENCE (KEY RESPONSE SUBJECTS)

According to the objective 1. Chapter 1. Of the State social programme on preventing and combating domestic and gender-based violence till 2025, collection, analysis and dissemination of information about domestic violence and/or gender-based violence, improvement of indicators system in the state statistical reporting forms on domestic and/or gender-based violence falls under the responsibility of the Ministry for Social Policy, National Social Services, Ministry of Interior, Ministry of Education, Ministry of Healthcare, State Court Administration (to be agreed), Office of the General Prosecutor (to be agreed), Council of Ministers of Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol city administrations, local authorities (to be agreed), civil society and international organizations (to be agreed).

Since this monitoring mainly focuses on the response from the criminal justice system, statistics from the related agencies was used in the analysis.

National Police of Ukraine

According to the statistics of the National Police of Ukraine, 208 784 complaints and reports about the offences and other incidents related to domestic violence were registered in 2020 (which is 47% more than in 2019), and makes about 570 reports a day. In 2021 the number of reports increased up to 56% and made 325 599 complaints and reports.

	2021*	2020.	2019.	2018.
Registered complaints and reports on offences and incidents related to domestic violence	325 599	208 784	141 814	115 473
Received reports filed by adults	319 724 (reported by victims – 74460 (reported by women – 58 856) and other individuals – 245 264)	205 351 (reported by women – 182 088)	139 933 (reported by women – 113 403)	114 055 (reported by women – 89 498)
Drew administrative protocols for administrative offenses	90 969	132 760	106 721	99 531
Initiated pre-trial investigation in the case	4847 (registered in Unified Register of Court Investigations)	4 931	2 776	2 628

	2021*	2020.	2019.	2018.
Entered offenders into the Perpetrator Register (adults)	94 649 people (82 991 male and 11 537 female)	85 285 people (75 961 male and 9 180 female)	72834 people (65720 male and 7 002 female)	69 290 people (63332 male and 5 857 female)
Served domestic violence emergency barring orders on (adults)	45 914 (male – 41 636, female – 4 257)	41 963 (male – 37 920, female – 4 007)	15 878 (male – 15 259, female – 616)	Not served

* Statistical form updated compared to previous years

The statistics for 2021 shows that the majority of complaints and reports were filed not by victims themselves, but by witnesses of the violence. This also demonstrates that victims are often afraid to call for help because of fear, shame, fear of criticism, lack of belief in possibility to receive help and other causes, often found in the situations of violence and circle of violence.

Generally, over the last few years, there has been a tendency to increasing number of complaints and reports made to National Police units on offences and other incidents related to domestic violence. This dynamic is caused by the following factors: Law of Ukraine on “Preventing and Combating Domestic Violence” which came into force; amendments made to the Criminal Code of Ukraine, which criminalize domestic violence; informational and awareness-raising campaigns telling public more about domestic violence and promoting intolerance towards it. The issues of domestic violence became more visible in the society and at the national level, it is highlighted more in the media. This led to increasing number of identified and self-identified victims of violence, stronger eagerness to report such cases and ask for help. Measures aimed at raising competencies of the criminal justice system to identify and respond to the cases of domestic and gender-based violence, also lead to better identification, recording and responding to such cases.

COVID-19 pandemic in 2020 is another factor which definitely influenced the increased problem and increased number of reports about domestic and gender-based violence. In the first months of strict quarantine restrictions (early 2020), civil society organizations and hotlines recorded a noticeable spike in domestic violence calls. Thus, the number of calls to the National Hotline for the Prevention of Domestic Violence, Human Trafficking and Gender Discrimination increased by almost 2.5 times⁸. The situation of the victims was complicated by the household constantly shared with the offender, with no possibility to leave the place at least for a while, most support services transferred to remote work, limited operation of public transport. All these reduced their access to assistance. Victims also reported cases of improper response by the law enforcement agencies, their failure to issue emergency barring orders against the offenders, police officers referring to quarantine as the ground not to enter the house, making suggestions that the complaint was not serious compared to the pandemic situa-

8 <https://www.facebook.com/lastradaukraine/photos/2944699428940455>

tion, etc. At the same time, according to the information of the National Police, in the first months of the quarantine restrictions, there was no increase in the number of reports. One of the reasons for this might be the fact that the victims were constantly in the same room with the offender and did not have the opportunity to contact the police by phone, while alternative forms of communications were used with civil society organizations. Another factor that could affect the responsiveness of the police was the increased workload of police officers due to the introduction of quarantine restrictions and their involvement in ensuring their compliance.

The National Police then launched a number of initiatives and measures aimed at disseminating the information about possible steps to receive assistance during quarantine, and diversification of communication channels with National Police units. For instance, chat-bot #ДійПротиНасильства (@police_helpbot) was designed, which helps contacting police services, call 102 line, and includes the information about other hotlines providing counselling on domestic violence.

National Police continues expanding and strengthening the network of mobile teams to respond to the domestic violence cases. This initiative started in 2017 within the pilot project of the National Police aiming at setting mobile teams to respond to the cases of domestic violence “POLINA”⁹. According to the Ministry of Interior of Ukraine¹⁰, in November 2021 mobile teams to respond to the cases of domestic violence were created in 67 Ukrainian cities. Moreover, 44 staff units against domestic violence were created.

Emergency barring orders

Introducing this specific measure against domestic violence not only strengthened the response to such cases, but also prompted the further development of the national legal field in this area. Data analysis about application of emergency barring orders shows its increased application in practice. The following indicators confirm this statement:

	2021	2020	2019	2018
Emergency barring orders issued against offenders	49 861 (Against males – 41 636 and 4 257 – against females)	42 197 (37 894 – against males and 4 303 – against females)	15 878 (15 259 – against males and 616 – against females)	Not issued

Such increasing of the number of emergency barring orders issued can be explained by the fact that such practice only started in the middle of 2019¹¹. It took time for the practice to be established, and for police officers of the National Police to actively apply it, as well as for victims to learn about it.

9 «Monitoring of the situation of the justice system’s response to domestic violence and violence against women: 2018»

10 <https://mvs.gov.ua/press-center/news/po-vsii-ukrayini-funkcionuje-86-grup-reaguvannya-na-proyavi-domasnyogo-nasilstva-katerina-pavlicenko>

11 Until now the Domestic Violence Risk Assessment form, on the basis of which an emergency barring order should be issued, was not approved.

Emergency barring orders issued in 2020 included the following measures:

- order to leave the residence (place of staying) of the victim – 10 716;
- prohibit to enter or stay in the residence (place of staying) of the victim – 11 478;
- prohibit all means of contacting the victim – 36 962.

Emergency barring order usually prohibits the contacts with the victim. In practice however it often leads to the situation when a victim has to leave the residence shared with the offender. In many cases the victims are justifiably afraid to stay in the apartment due to further harassment by the offender against the issued order. But it is worth noting that one issued emergency barring order may contain several measures, and it is the "prohibition in any way to contact the victim" that may be a reinforcement for other measures.

Activity of the National Police of Ukraine in the area of preventing and combating domestic violence experienced significant positive changes due to the introduction of new provisions in legislation and strengthened mechanism of responding to such cases. Since the duties of the police officers in the area were expanded, specifically to issue emergency barring orders, to inform victims etc., victims' expectations from police also increased.

However, this area still has unaddressed challenges. Compliance with the emergency barring order should be taken under control, and the offender should be held responsible for violations of such order. At the moment Ukraine in its legislation only sets out administrative punishment for failure to comply with the emergency barring order. However, the judicial practice is different, and the individual who violates the order often avoids responsibility for such actions.

The court does not apply administrative punishment against the offenders for the violation of the emergency barring order or not reporting the offender's place of temporary living in the following cases:

- emergency barring order is difficult to read;
- lack of confirmation of the fact that the person was familiarized with the terms of the emergency barring order and signed it;
- emergency barring order obliges the offender to leave the residence of the victims, but does not prohibit him from entering and staying in the residence of the victim, or from all means of communication with the victim;
- the protocol about administrative offence does not include the copy of the emergency barring order, and the protocol itself has no information about the period of validity of such order.

01 April 2020, Zhytomyr
Case № 296/256/20

«Materials of this case do not include any evidence of the violation of the emergency barring order by the INDIVIDUAL_1, since the emergency barring order attached to this administrative case is illegible and unreadable, there is no confirmation that the person is familiarized with the terms of the emergency barring order, and no signature to prove otherwise in the materials of this administrative case».

At the same time the person against whom the emergency barring order was issued has a right to argue such order in the court following the procedure of arguing decisions, actions and inactions of the authorized units of National Police of Ukraine.

In most of the cases the grounds for cancelling the emergency barring orders were corrections made by the police officers during its issuing, which is not allowed by the law.

09 June 2020, Lutsk
Case № 159/695/20

«The emergency barring order against the offender AA №082713 issued on 23 February 2020 in the line “person identified” includes corrections in the date of driving license issuance, which makes it impossible to understand the date of issue of the corresponding driving license».

04 May 2020, Lviv
Case №380/1775/20

«The line «Emergency barring order against the offender valid until» includes corrections in date when it's issued; there is visible correction in «05.02.2020 p.»

Another reason for cancelling the emergency barring order was mistake made during its issuing, when the term of its validity exceeded 10 days.

«Moreover, indicating the duration period of 9 days for the disputed emergency barring order, which is valid from 05.03.2020 till 13.05.2020».

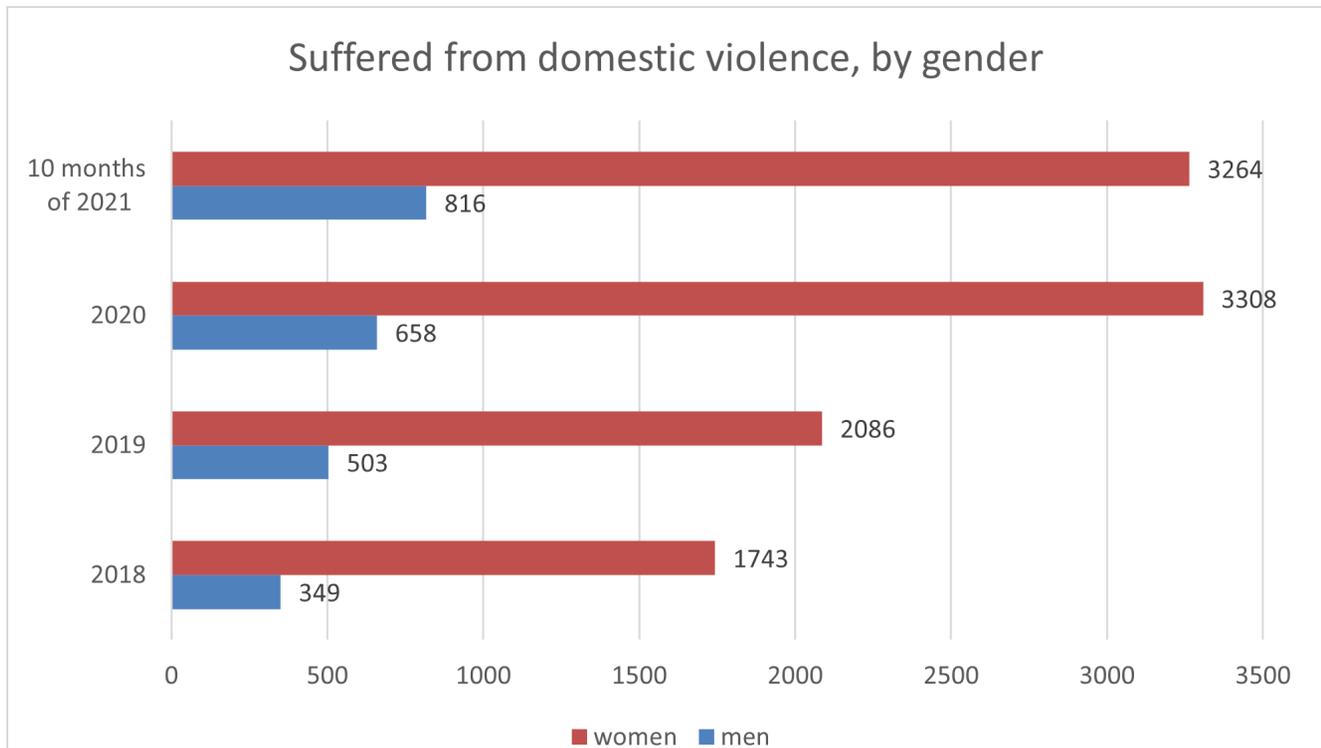
This leads us to the conclusion that the compliance with the emergency barring order needs to be taken under mechanism of control, particularly through using electronic means of control.

Moreover, the judicial practice analysis demonstrates that there is a need for strengthening the capacities of the police officers to issue emergency barring orders, particularly to properly fill in the form of emergency barring order.

Office of the Prosecutor General of Ukraine

According to the data¹² of the Office of the Prosecutor General of Ukraine, in 2020 and 2021 there were 2213 and 2431 criminal cases initiated under the article 126-1 of the CCU.

According to the Office of the Prosecutor General of Ukraine¹³, women continue to disproportionately suffer from domestic violence.



Expanding practice of application of the article 126-1, as well as strengthening the capacities of the criminal justice sector specialists on identification of domestic violence cases and applying those norms in their practices is the key factor increasing the number of registered offences.

The fact that combating domestic violence has become one of the priorities of the prosecutor's office in 2021 should be another impetus for strengthening the response of the prosecutor's office to cases of domestic violence, as reported by the Office of the Prosecutor General of Ukraine¹⁴.

There is a positive tendency in responding to the cases of violence against sexual freedom and integrity, namely, criminal offenses under Art. 152 and 153 of the Criminal Code. However, the relatively small number of proceedings in this area only confirms that sexual violence remains a latent crime, that victim-blaming is common, due to which victims do not report the violence they experienced.

¹² <https://gp.gov.ua/ua/posts/pro-zareyestrovani-kriminalni-pravoporushennya-ta-rezultati-yih-dosudovogo-rozsliduvannya-2>

¹³ <https://gp.gov.ua/ua/posts/protidiya-domashnomu-nasilstvu>

¹⁴ <https://gp.gov.ua/ua/posts/protidiya-domashnomu-nasilstvu>, <https://www.youtube.com/watch?v=dmtz44GwVzw>

	Year	Domestic violence (art. 126-1 of CCU)	Rape (art. 152 of CCU)	Sexual violence (art. 153 of CCU)
Criminal offences registered within the reporting period	2021	2 431	399	85
	2020	2 213	393	87
	2019	1 068	352	69
Criminal offenses where a notice of suspicion was served on the suspect	2021	2 175	383	68
	2020	1 877	369	69
	2019	778	308	46
Criminal offence where a case went to trial	2021	2 136	318	61
	2020	1 823	299	57
	2019	755	200	35
Criminal offenses where cases were closed	2021	904	168	19
	2020	828	227	28
	2019	496	266	16
Criminal offences with no court decision made by the end of the reporting period (resolving or closing the case)	2021	289	79	24
	2020	381	82	26
	2019	308	260	16

Another initiative of the Prosecutor General's Office in the field of combating domestic violence was the creation at the end of 2021 of an interagency working group on combating criminal offenses related to domestic violence, which included representatives of the criminal justice system, in particular the prosecutor's office, the National Police and the Ministry of Internal Affairs, experts from civil society organizations. Its activities are aimed at improving the interaction of the prosecutor's office with other entities and increasing the effectiveness of responding to cases of domestic violence.

Free Legal Aid

The system of the free legal aid (FLA) is an important part of the protection mechanism for suffered from domestic violence.

Recently, there has been a significant increase in the number of complaints made by suffered from domestic violence and gender-based violence to free legal aid centres. Thus, in 2018, there were 92 cases in the proceedings of FLA centres where emergency barring orders were issued in accordance with the Law of Ukraine "On Prevention and Combating Domestic Violence". In 2019, 790 suffered from domestic and gender-based violence turned for the services of free secondary legal aid (758 females and 32 males), and in 2020, 1263 people applied to the FLA system (1200 females and 63 males).

Such dynamics may indicate an increased public awareness of the FLA centres activities and better access to services for these categories of cases, as well as the active involvement of the FLA centres in initiatives and campaigns aimed at combating domestic violence. However, considering the total number of applications for domestic violence in general, the number of applications for free legal aid is relatively small. In the vast majority of cases, the reason for this is citizens' ignorance of the possibility to receive such assistance, as well as the lack of effective referral to free secondary legal aid centres from other entities.

According to the FLA centres¹⁵, suffered from domestic violence come with the following problems: cases on receiving restraining order against the offender; victim's representation in criminal and administrative cases; divorce and dividing property during divorce; child maintenance, determination of child's residency, termination of parental rights.

Every third victim of the domestic or gender-based violence asks for assistance in filing a request for restraining order against the offender. Hence, almost every third persons needed measures covered by the restraining order, and had grounds to be afraid of repeat domestic violence in the future. In 2020 there were 432 such requests. In 234 cases on protecting rights and interests of the victim of domestic and gender-based violence the court fully or partially granted the restraining orders in cases represented by legal advisors or lawyers cooperating with the free legal aid. In 203 cases the offender was prohibited from staying in one residence with the victim, in 183 cases – from approaching a certain distance to

¹⁵ <https://www.legalaid.gov.ua/novyny/yak-systema-bpd-zahyshhaye-poterpilyh-vid-domashnogo-nasylstva>

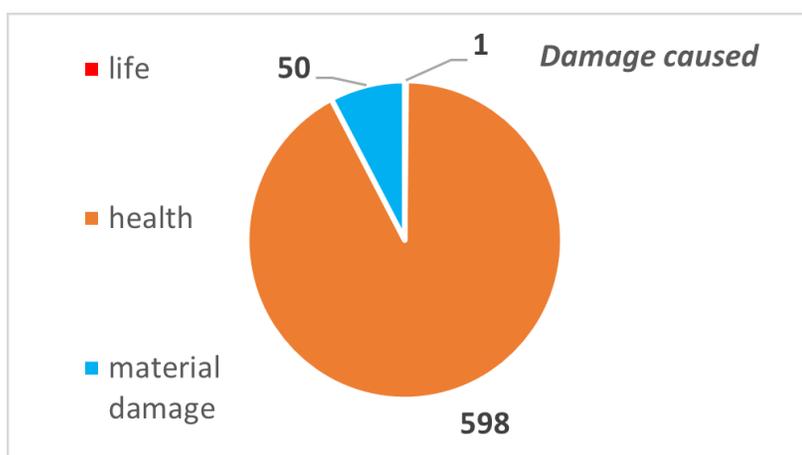
the place victim's residence, work or study. In 154 cases all communication via mail, phone or other means or communication through the third parties was prohibited. In 124 cases the offender was prohibited from correspondence, telephone conversations with the victim or contacting them through other means of communication in person and through third parties.

Among claims received by the free legal aid in 2020, 89 concerned representations of the interests of the victims of criminal or administrative cases. In these cases, the courts handed down 14 judgements finding the person guilty in committing a crime under art. 126-1 of the Criminal Code of Ukraine (Domestic violence) and 32 judgements finding the person guilty in committing the administrative offence under the art. 173-2 of the Code of Ukraine on Administrative Offence (Committing family violence or violation of emergency barring order). 21 cases are still under consideration.

State Court Administration

According to the State Court Administration, in 2019 only 319 criminal proceedings under art. 126-1 of the Criminal Code of Ukraine out of 626 initiated were heard in courts. 226 judgments were handed down. 151 women and two children were among 156 victims.

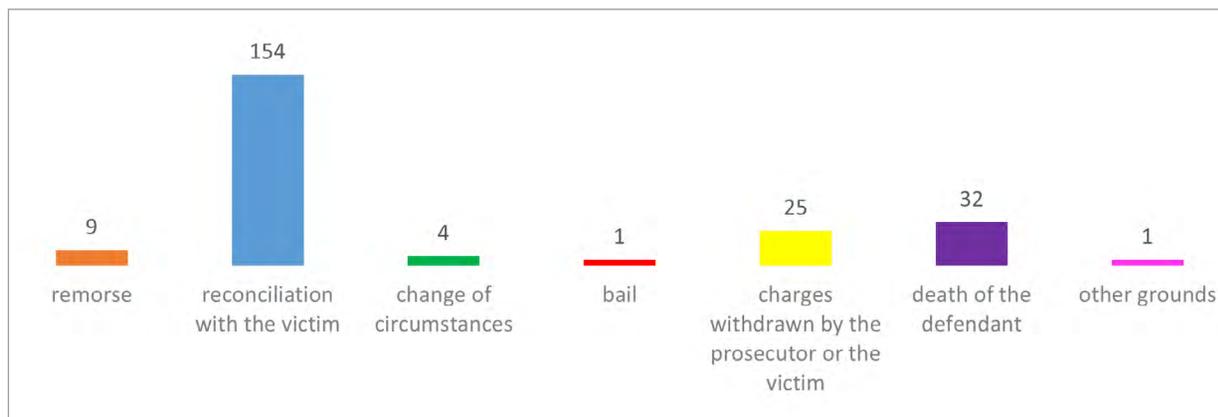
In 2020, 1194 proceedings under art. 126-1 of the Criminal Code of Ukraine out of 1877 initiated. 926 judgements handed down by the courts of the first instance. Among 649 victims 597 there were 597 women and 6 children (3 girls).



2020 has seen some improvement of the situation with the proportion of proceedings considered by the courts compared to 2019, the proportion of judgements handed however decreased. The other important fact requiring specific attention is very small number of children recognized as victims under art. 126-1 of the Criminal Code, which demonstrates the lack of appropriate access to justice for this category of victims.

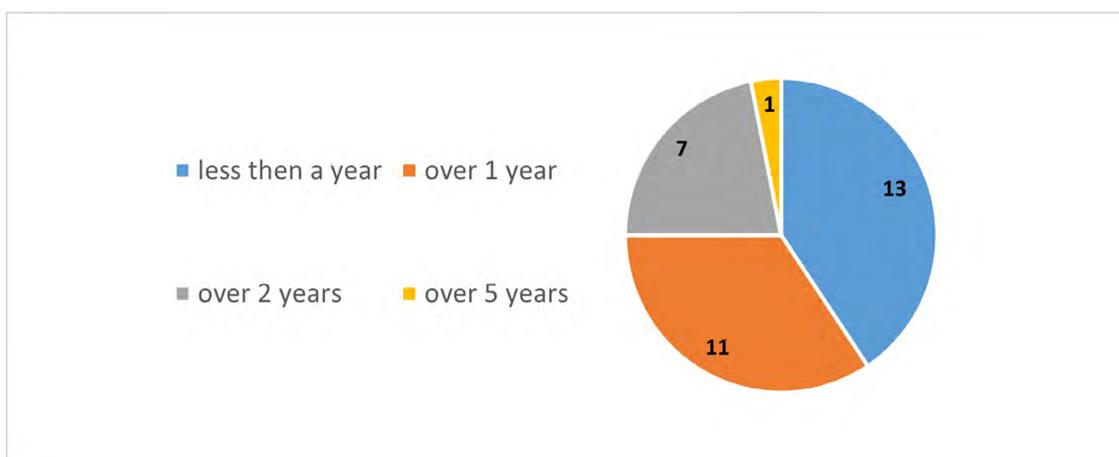
In 2020 court judgements under art. 126-1 of the CCU entered into force against 1008 people.

Criminal proceedings against 226 people were closed due to the following grounds:



Under the art. 126-1 of the CCU the offenders were sentenced to:

- deprivation of freedom – 38 people



- limitation of freedom - 33 people;
- arrest - 119 people;
- community service - 410 people;
- fine – 6 people.

172 individuals released of liability on probation. Such a large number of people released of liability demonstrates the somehow formal approach to punishment of the offenders. In practice a person who committed violence does not receive any punishment and continues living with the victim.

1 person was punished by termination of the right to hold certain positions and prohibition from some activities;

42 persons received punishment for a set of crimes;

66 persons received punishment on a multiple charge;

5 persons received punishment under art. 69 of the CCU.

In 2020 778 people were sentenced under art. 126-1 of the CCU (758 – males, 20 – females), 776 people had Ukrainian citizenship, and 2 foreigners.

Age of the convicts: 18 to 25 years old – 13 people, 25 to 30 years – 49 people, 30 to 50 years – 515 people, 50 to 65 years – 195 people, over 65 – 6 people.

Referral of the offender to the programme for offenders

According to the art. 39-1 of the Code of Ukraine on administrative offence, the court hearing case of domestic or gender-based violence has a right to decide on referring the offender to the programme for offenders who committed domestic or gender-based violence set in the Ukrainian law in the same hearing that they impose the administrative punishment.

The art. 28 of the Law of Ukraine on “Preventing and Combating Domestic Violence” the offender can be referred to the programme for offenders for the period of three months to one year in cases set in the law. The article also sets out the possibility for the offender to take the programme voluntarily. Thus, the offender can take a programme on court order, or voluntarily.

Indeed, the judgement in the case № 296/11347/19 Koroliivsk district court in Zhytomyr dated 29.11.2019 in proceeding № 2-o/296/173/19 says:

«According to Part 6.7 of Art. 28 of the Law of Ukraine "On Prevention and Combating Domestic Violence" the offender may be sent by the court to undergo a program for offenders for a period of three months to one year in the cases provided for by law. The offender must be able to attend a program for offenders on his/her own initiative on a voluntary basis. Given the above provisions, it is the court's right, not its duty, to refer an offender to an offender program. It is also necessary to take into account the will of the offender himself, who should be able to attend a program for offenders on his own initiative on a voluntary basis. Under such circumstances, based on case materials, the absence of PERSON_2's willingness to attend such a program, the court does not see any unconditional grounds for placing an obligation on PERSON_2 to attend the specified program, and therefore the application in the specified part is not subject to satisfaction.

Such cases lead to the improper application of the law, and as a result this special protection measure will not be applied. Hence, it is extremely important to ensure raising competencies of the justice system specialists and creating single approaches to law application.

ANALYSIS OF COURT DECISIONS UNDER ART. 173-2 OF THE CODE OF ADMINISTRATIVE OFFENCES ON COMMITTING DOMESTIC VIOLENCE, GENDER-BASED VIOLENCE, VIOLATION OF THE EMERGENCY BARRING ORDER OR FAILURE TO NOTIFY THE PLACE OF TEMPORARY STAY

One of the key measures of the state's response to domestic violence is bringing the offender to administrative responsibility as specified in Art. 173-2 of the Code of Administrative Offences. A person may be held liable in the case of psychological, economic and physical forms of domestic violence without bodily harm.

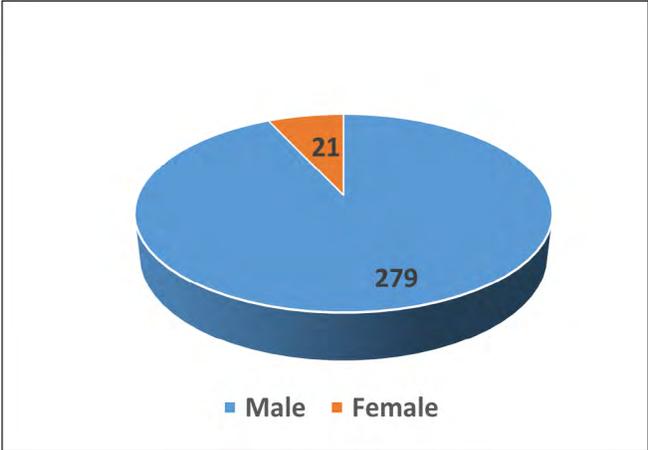
300 court judgements were analysed for the period from 01.01.2020 till 31.12.2020 randomly selected from the Unified Register of Court Decisions¹⁶ in equal proportions by months and regions of Ukraine.

Among the total number of these court decisions, none related to gender-based violence, violation of emergency barring order, or failure to report the place of temporary residence.

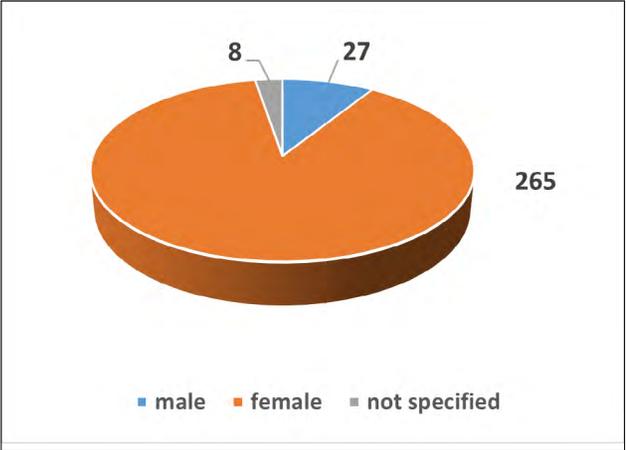
All 300 court judgements related to domestic violence. This might demonstrate the lack of proper identification of the gender-based violence cases under the respective article, and as a result the administrative protocols are not drawn up and offenders are not brought to justice.

Statistical data on sex of the offenders and victims in such cases confirm the fact that more women than men suffer from domestic violence, while the majority of the offenders are men. In cases where women were the offenders the domestic violence was committed against a husband or a child.

Sex of the offender:



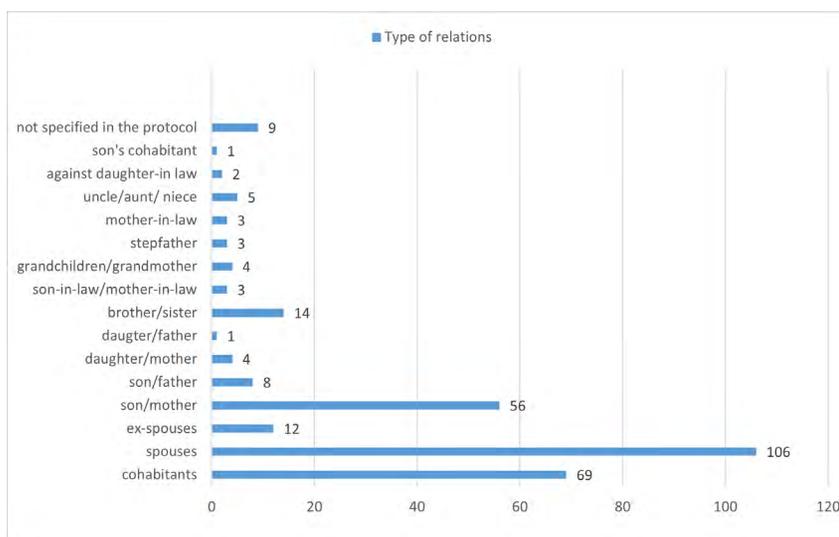
Sex of the victim:



16 <http://www.reyestr.court.gov.ua>

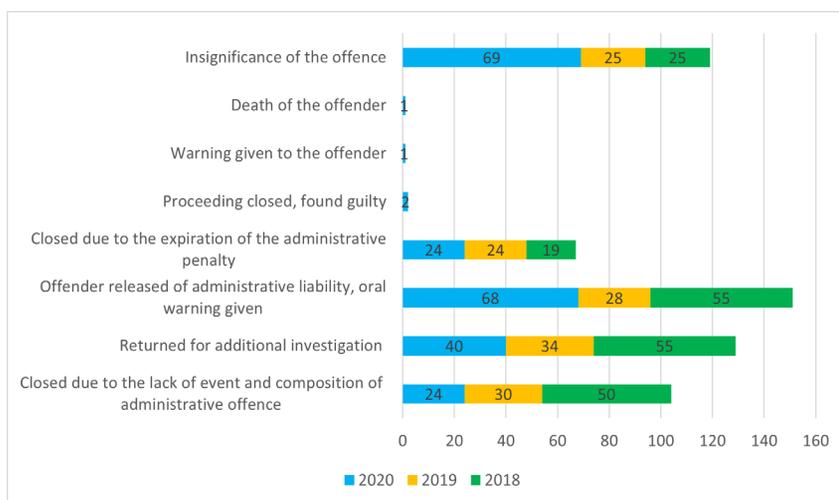
The type of relations between the victim and the offender differs, which demonstrates the urgency of the problem for many families. In vast majority of the cases the domestic violence took place between spouses (106), cohabitants (67) or it was committed against mothers by their sons (56). The same categories of the victims were identified in 2019, thus the tendencies of family relations between victims and offenders remain the same.

Family relations



In 160 of 300 court judgements analysed the offender was released of liability due to different reasons (the absence of the event and composition of the offense, protocol on the administrative offense returned for revision, expired term of administrative responsibility, the death of the offender, etc.).

The reasons for releasing of liability were as follows:



Administrative cases are getting closed due to the lack of event and composition of the offence (p. 1 p. 1 art. 247 Code of Administrative Offence). 24 cases analysed were closed due to the lack of event and composition of the offence¹⁷.

17 3/242/332/20, 509/763/20, 566/132/20, 587/200/20, 752/257/20, 587/624/20, 126/746/20, 932/3057/20, 414/1095/20, 587/888/20, 570/2252/20, 587/1280/20, 207/1651/20, 344/8885/20, 943/991/20, 490/2816/20, 587/1337/20, 727/5988/20, 643/12929/20, 369/5411/20, 276/1460/20, 397/1202/20, 478/1005/20, 3/8697/20,

Indeed, Selydivsky city court of Donetsk oblast released PERSON_1 of administrative liability under p.1 of the art. 173-2 of the Code of Administrative Offence on 05 December 2019 and made an oral warning. The case against PERSON_1 under p.1 art.173-2 of the Code of Administrative Offence was closed.

Many courts' judgements remand administrative offence cases for revision. 40 of 300 analysed cases were remanded for this reason¹⁸, for instance, for to be properly drafted. This demonstrates significant shortcomings in police work in drawing up protocols. The monitoring reports for the previous two years show that the grounds for return stay the same:

- no circumstances of the administrative offense are specified;
- no information about the officer who drew up the protocol;
- no information about the victim;
- no evidence is attached to the protocol, therefore the information necessary for the due resolution of the case was missing;
- no date when the protocol was drawn;
- no confirmation of the recurrence of the offense;
- no statement as to whether the actions of the offender could or have caused harm to the physical or mental health of the victim;
- incorrect information about the place of residence of the offender;
- no specific details about the place where the offense was committed.

Thus, it is still relevant to pay attention to the correct drawing of the protocols, raising competencies of the police officers, their understanding of correct documenting of administrative offences.

*Case № 219/493/20
Proceeding № 3/219/383/2020*

The materials of the case have no information about proper notification of the person who committed the administrative offence about the court date, which means the presence of the person in the court is not ensured.

Moreover, the protocol on administrative offence of the PERSON_1 under p.2 of the art. 173-2 of the Code of Ukraine on Administrative Offences misses evidence of the fact that the PERSON_1 was brought to administrative liability under p.1 of the art.173-2 of the Code of Administrative Offences.

Based on the mentioned above, we come to the conclusion, that the materials of administrative offence case should be remanded to the Chief unit of the National Police in Donetsk oblast for revision.

18 219/493/20, 346/371/20, 642/8474/19, 756/369/20, 127/29040/19, 175/276/20, 297/35/20, 475/99/20, 524/751/20, 642/911/20, 661/344/20, 932/3113/20, 938/139/20, 490/328/20, 507/345/20, 636/941/20, 661/489/20, 297/761/20, 473/983/20, 759/4673/20, 398/1562/20, 572/1384/20, 629/2032/20, 759/7599/20, 146/519/20, 301/1090/20, 705/2270/20, 759/9189/20, 274/3530/20, 704/551/20, 759/11882/20, 182/4301/20, 343/1013/20, 274/6349/20, 334/3307/20, 734/1991/20, 369/11363/20, 728/2251/20, 759/22183/20

There are administrative offence cases closed under p.7 of the art. 247 of the Code of Administrative Offences due to the offence time limit expiration (within three months after the offence was committed). 24 such cases found among 300 analysed¹⁹. This also shows the shortcomings in the police work, when the police officers violate time limits of transferring administrative cases to the courts, which allows offenders to avoid responsibility. Another reason for time limits violations is that offender do not show up in courts, when the police does not ensure their presence. Under the law such cases can only be heard in the presence of the person who committed the administrative offence.

*Case № 471/773/19
Proceeding №3/471/37/20*

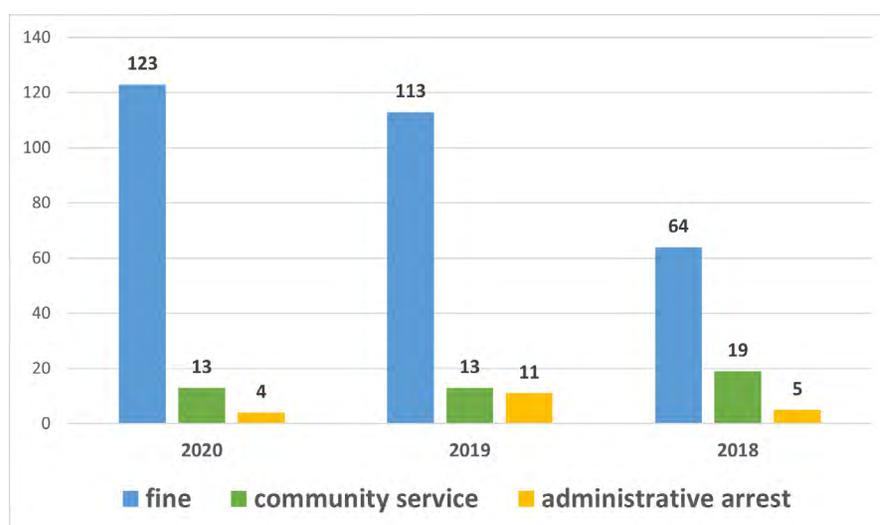
The administrative offence sent to the court on 15.01.2020 was committed on 09.10.2019, meaning the time limits for bringing to administrative liability expired, the proceeding should be closed.

Following the provisions of the art. 283-284 of the Code of Administrative Offence the court decided:

Proceeding in the case of charging PERSON_1 for committing administrative offence under p.1 of the art.173-2 of the Code of Administrative Offence should be closed, since the time limit of the administrative offence expired.

In vast majority of the cases male offenders committed domestic violence. In 21 cases women were brought to responsibility for domestic violence²⁰, and in all cases women were found responsible for committing psychological violence.

In 140 cases of 300 analysed the following penalties were imposed:



¹⁹ 471/773/19, 523/12539/19, 591/6266/19, 714/39/20, 143/230/20, 458/776/18, 170/47/20, 357/6101/20, 396/762/20, 489/667/20, 404/2220/20, 490/2816/20, 396/1087/20, 478/1005/20, 556/1040/20, 392/1044/20, 606/1573/20, 691/908/20, 159/3956/20, 489/4136/20, 545/2747/20, 595/1792/20, 639/6239/20
²⁰ 721/258/19, 389/629/20, 408/450/20-II, 932/3057/20, 947/9392/20, 751/1390/20, 638/6204/20, 705/2270/20, 723/2479/20, 759/9189/20, 127/14576/20, 637/590/20, 685/944/20, 396/1421/20, 736/1107/20, 3/8697/20, 644/7598/20, 336/7491/2020, 371/756/20, 654/3998/20, 721/794/20,

Fine remains the most frequent administrative penalty, though its effectiveness is not significant, and in most cases, fine is paid by the victims themselves.

The most frequent manifestations of violence, which were mentioned in court decisions and served as grounds for administrative prosecution, were as follows:

- swearing;
- insults;
- threats of physical violence/threats of violence and use of force;
- psychological or moral pressure;
- property damage;
- denial for use of property;
- provoking a fight;
- yelling;
- shoving;
- starting a fight that did not result in bodily damage or injuries;
- extortion of money for alcohol;
- hair pulling;
- slap in the face

In some cases, domestic violence as a legally defined term is misnamed in court decisions (e.g. “violence in the family” is used instead).

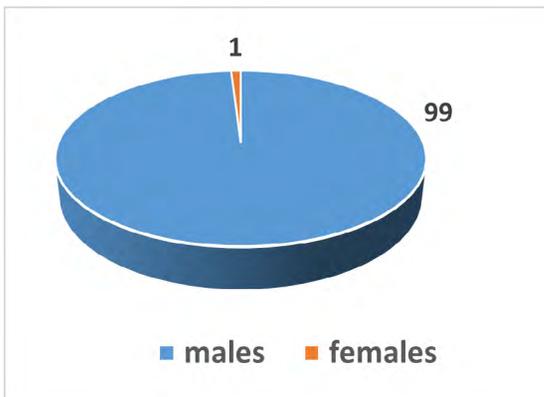
The Code of Administrative Offence also provides for the release from administrative liability due to insignificance of the offence. Article 22 of the Code of Administrative Offence says that in case of insignificant administrative offence the agency (official) authorized to decide on the case has a right to release the offender from administrative liability and give oral warning, which is exactly what happens in most of the cases under art. 173-2 of the Code of Administrative Offence. This was a tendency in 2018-2020. The situation is complicated by the fact, that the law does not provide the definition of “insignificant offence” or features of such offence, which leads to controversies in practice. It is disputable that the identified case of domestic violence is not a threat to public safety, did not and could not cause significant damage to the victims. This issue becomes more urgent when the state increased attention to the problem of domestic violence and its criminalization. This is a negative tendency which contradicts all international standards and approaches to the response to domestic violence, and requires changes.

Increased number of fines chosen as a type of administrative penalty is another negative tendency, since paying the fine is usually the burden for the victim and her/his family, not the offender.

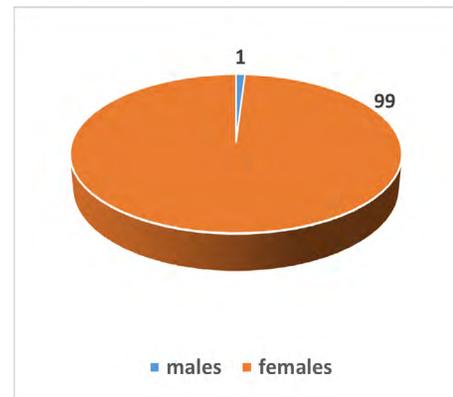
ANALYSIS OF THE COURT JUDGEMENTS UNDER ART. 126-1 OF THE CRIMINAL CODE OF UKRAINE "DOMESTIC VIOLENCE"

Within the monitoring 100 court judgements were analysed during the period from 01.01.2020 till 31.12.2020, randomly selected from the Unified Register of Court Decisions²¹.

Sex of the offender:



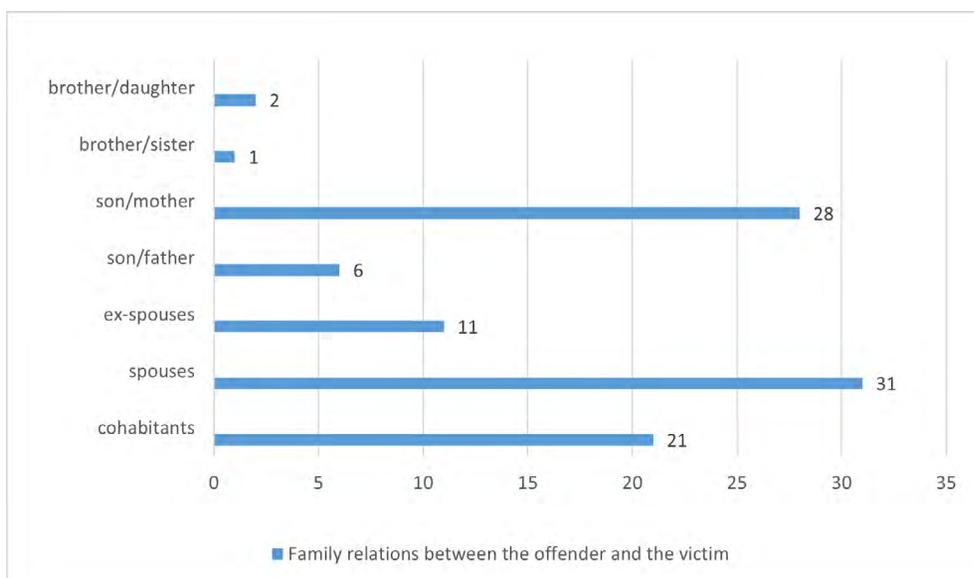
Sex of the victim:



In most of the cases offenders were male – in 99 cases. There was one case with the female offender²² (for committing psychological violence).

At the same time the vast majority of victims were women.

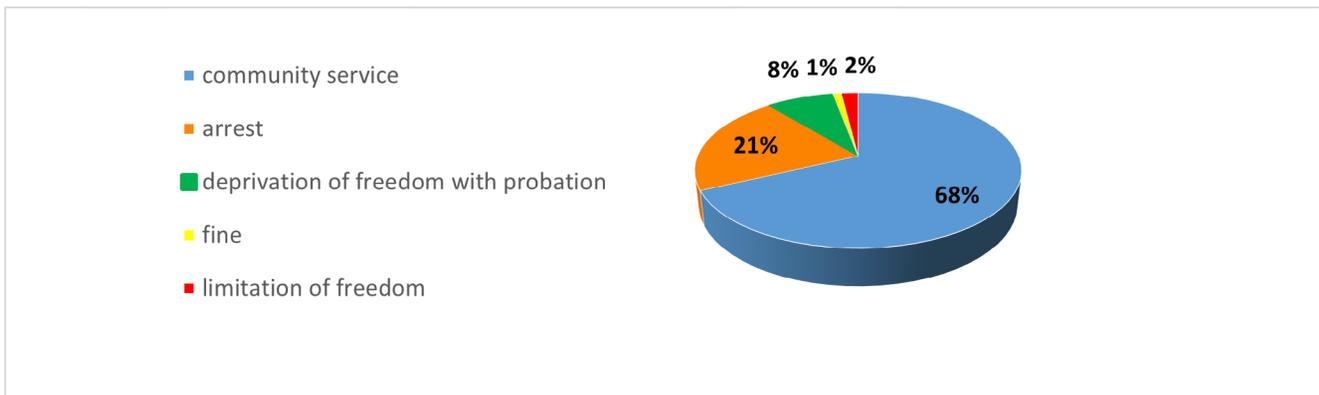
Data on the relations between the offender and the victim are similar to the results of the analysis of the court judgements under art. 173-2 of the Code of Administrative Offence: most of the crimes were committed between spouses, against cohabitants and mothers.



21 <http://www.reyestr.court.gov.ua>

22 579/2156/19

The courts applied the following punishment:



Comparing the results of the analysis in 2019 (300 cases were analysed then)²³, the similar tendencies appear: the most frequently applied punishment under this article is community service and arrest.

During pre-trial and trial investigation of the criminal case under art. 126-1 of the CCU, it is possible to make a conciliation agreement between victim and suspect/defendant, which is a common practice.

However, such agreements often go against the interests of the victim, and sometimes are drawn with violations, particularly, initiated by the offender or his/her representative.

²³ «Monitoring of the criminal justice system response to domestic and gender-based violence: 2019» approved. <https://la-strada.org.ua/download/monitoryng-sytuatsiyi-reaguvannya-systemy-pravosuddya-2019>

ANALYSIS OF THE JUDICIAL PRACTICE IN ISSUING AND EXTENDING THE TERMS OF RESTRAINING ORDER WITHIN CIVIL PROCEEDINGS

Applications for the restraining orders are decided by the court in the presence of the applicant and interested parties. If they were properly informed, but did not show up in the court, the case will be heard without their presence. In case the participation of the applicant might become a threat to his/her further discrimination, the case may be heard without him/her.

If we compare the number of restraining orders issued within the framework of civil proceedings, in 2019, 710 applications for the issuance and extension of restrictive orders were pending in courts of first instance, 595 applications were considered, and 353 applications were granted. In 2020, 998 applications were pending, 843 were considered, and 500 applications were granted. The increase in the number of applications during 2020 is indicative of the increase in cases of domestic violence, but it is still disproportionate to the increase in the number of cases of violence. This may indicate insufficient access to justice for victims. The share of considered and satisfied applications during 2020 has practically not changed compared to 2019. However, this is not a very positive trend, since the corresponding indicator in 2019 was quite low (only 84% of applications are considered and about 50% of applications are granted by the court).

The court must consider the case on the issuance of a restraining order no later than 72 hours after the application for the issuance of a restraining order is received by the court. However, considering the case no later than 72 hours after receiving such an application is a certain challenge: if evidence needs to be demanded in the case, then 72 hours is not enough for this. Even if I indicate the shortest period during which the evidence must be presented to the court, it is also often not observed. In the same way, an interested person can resist: file objections, various types of motions, which the court must consider and make a decision. (From communication with participants of trainings for judges).

As mentioned above, the court decisions in cases of restraining order issuing or extension made between 01.01.2020 and 31.12.2020 were thoroughly monitored.

It is necessary to say that, just as in previous years, that court decisions are often entered incorrectly into the Unified State Register, which makes finding them quite complicated. Thus, court decisions on the issuance and renewal of restraining orders are placed in the following categories: "Civil cases; Other cases", "Civil cases; Claim proceedings; Disputes arising from housing relations; Disputes arising from housing relations on eviction", " Civil cases; Separate proceedings;

Disputes arising from family law”, "Cases establishing facts of legal significance”, etc.

In the majority of 300 cases analysed the courts granted the application for restraining order.

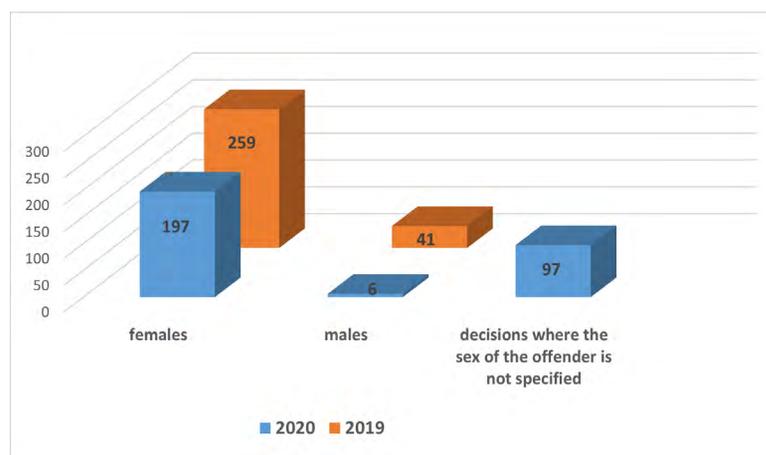


Analysis of the data for the previous years, shows a tendency not only to increased number of applications for a restraining order, but also the number of applications granted.

Year	Application of the restraining order granted	Application of the restraining order partially granted	Application of the restraining order denied
2020 (300 court judgements)	240	0	60
2019 (300 court judgements)	14	218	68
2018 (78 court judgements)	39	5	34

Such data might demonstrate the raised awareness of the public about this specific measure and of possibility to apply for it, as well as of the raised competency of the specialists and development of judicial practice in the area.

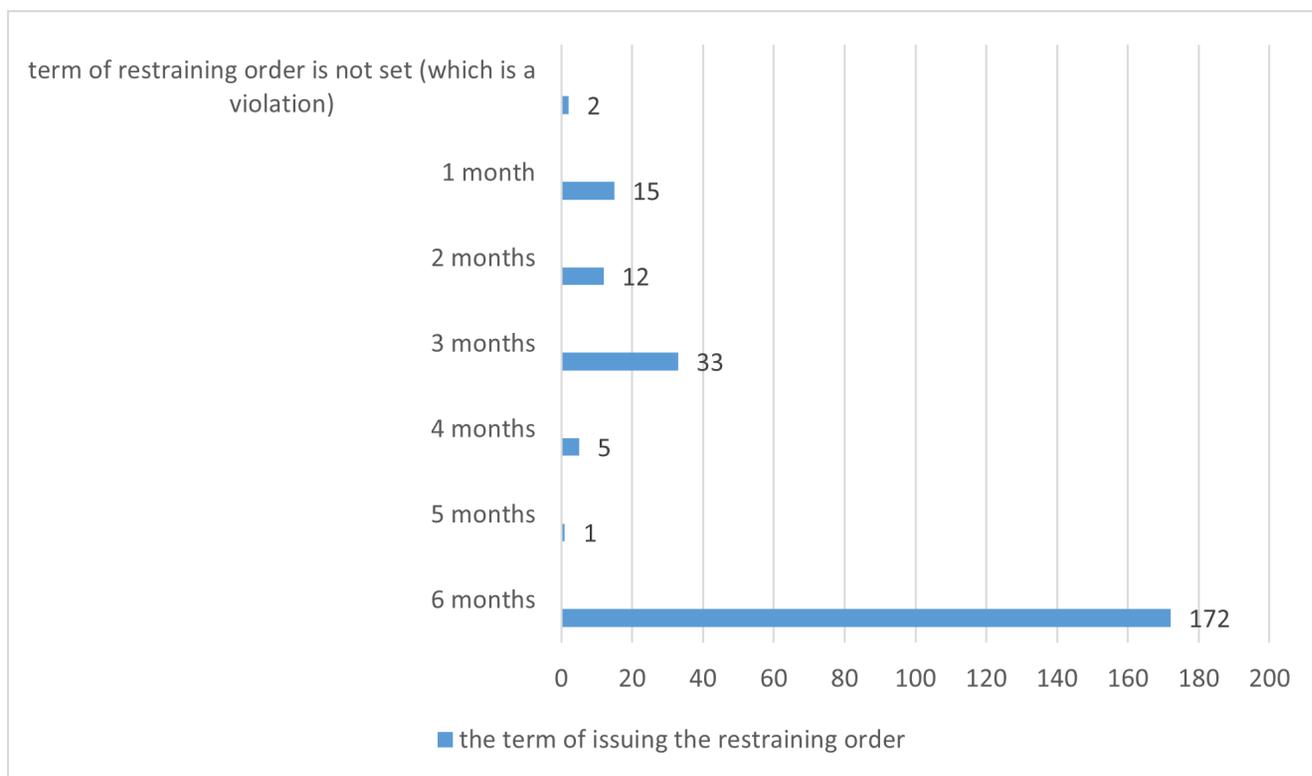
In cases analysed the majority of applicants are women:



The following categories of plaintiffs sought restraining orders:

- spouses
- ex-spouses
- cohabitants
- mother
- other categories.

In cases of satisfied application, the terms of issuing restraining orders were as follows:



Among circumstances which are taken into consideration in application are the following:

- previous administrative punishments under art. 173-2 of the Code of Administrative Offence;
- a record in the police register of offenders;
- alcohol abuse;
- previous criminal records.

ANALYSIS OF THE RESULT OF SURVEY CONDUCTED IN THE NATIONAL HOTLINE ON PREVENTION OF DOMESTIC VIOLENCE, HUMAN TRAFFICKING AND GENDER DISCRIMINATION (NHL) ABOUT THEIR EXPERIENCE OF REPORTING DOMESTIC VIOLENCE TO RESPONSE SUBJECTS

National Hotline on Prevention of Domestic Violence, Human Trafficking and Gender Discrimination is an important tool of providing services, information and monitoring, as well as one of the elements of national mechanism of cooperation between subjects responsible for assisting victims of domestic and gender-based violence. The hotline operates 24/7. All consultations are anonymous and confidential.

The number of calls on the HL and the percentage of consultations provided on issues of domestic violence confirm that the problem is very urgent.

	2021	2020	2019	2018
Total number of calls	37 918	29 511	33 862	22 542
Proportion of consultations on domestic violence	95,8%	95,7%	94,9%	97,1%

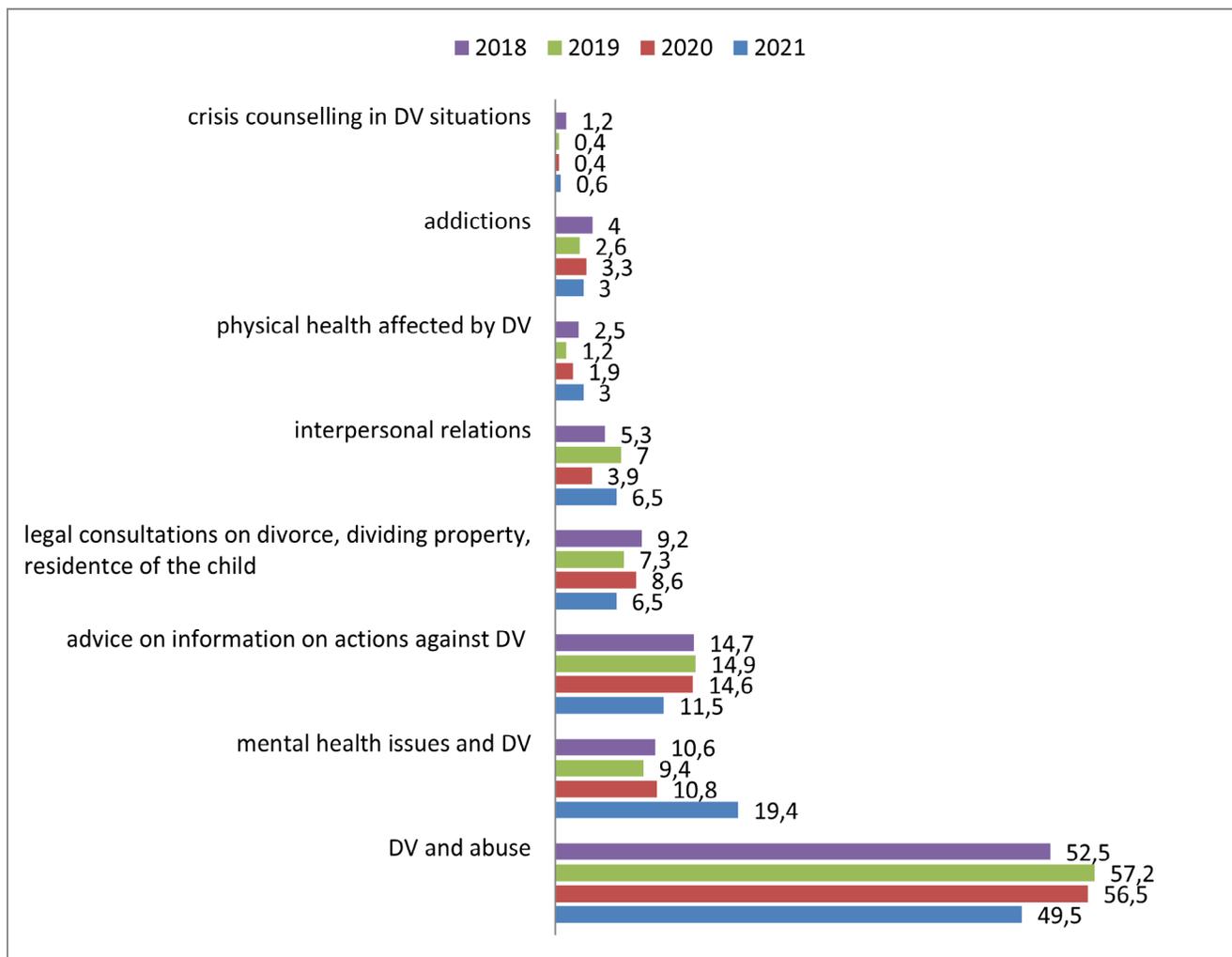
The number of calls differ in different years, the proportion of calls on domestic violence however remains high all the time.

Sex of the callers also remains the same. In 2021 83,3% of calls came from women and 16,7% of calls – from men. Previously the proportion of calls from men and women calling to the hotline was very similar. (For instance, 83,6% in 2020 were received from women, 16,4% – from men.)

Types of violence. The distribution of calls by type of violence also remains stable every year. The most common among them are psychological and physical violence. However, the fact that the percentage of reported cases of sexual violence remains insignificant indicates that this aspect, like the problem of sexual violence itself, remains latent, and victims rarely speak about it and do not seek for help.

In many cases several types of violence are committed.

Comparison of indicators on several types of calls about the domestic violence for recent years demonstrates that the key tendencies in requests remain the same – calls on domestic violence and abuse are still very relevant (%):



Results of the survey conducted among NHL clients affected by domestic violence about their experience of reporting to police

100 clients from 20 regions of Ukraine took part in the survey conducted in September-October 2020²⁴. 92% of them were females, 6% – males, 2% did not specify their sex.

In two-thirds of cases, domestic violence was committed between partners or ex-partners: 35 cases – domestic violence between spouses; 19 cases – between ex-spouses; 12 cases – between couples; 29 cases – between parents and children; 5 – other cases. 95% of clients reported the domestic violence to police.

Key challenges found during the survey

- The clients felt that the police response to the cases of domestic violence was not effective enough and did not meet their expectations.
- There is a big communication gap between police and victims. Particularly, the victims did not have information about the results of course of investigation related to their reports, did not receive any copies of administrative protocols.
- There are certain gaps in cooperation between police and other subjects responsible for prevention and combating domestic violence (healthcare institutions, social services, psychological support services etc.), which makes the work of the police less effective., since the overall situation for the victims does not change.
- Lack of information provided by the police to the victims about their rights and services they are eligible for, especially about the free legal aid and emergency barring order, results in the situation when the victims do not use all possible help and have limited access to justice.
- Low identification of cases of domestic violence against children or cases when children witness the abuse of adult victims.
- In some case the police officers downplayed the significance of cases of domestic violence. This problem is closely related to ineffective risk assessment when the victim is vulnerable before the potential threat from the offender. In particular, there were cases registered when the police underestimated the threat posed by an alcoholic or drug-addicted offender,

²⁴ Within the Canadian-Ukrainian Police Development Project (CUPDP) on combating domestic violence with the support of the Government of Canada

as well as the vulnerability of elder victims, mothers of many children, persons with disabilities, etc.

- Emergency barring order was issued only in every 10th case, though many victims considered this protection measure to be effective and expected they could receive it from police.
- The majority of clients did not know about mobile response teams.
- The majority of surveyed clients did not feel safe after the police left, since their situation did not at all improve. In some cases, it became even more complicated. Some callers reported that police left them alone with aggressive offender.

Recommendations of the survey

- Ensure following the procedure of accepting, registration and handling complaints from the victims, assessment of risks and issuing emergency barring order.
- Set effective system of communication between police and victims after the complaint was filed. The victims should be informed of the course of investigation.
- Strengthen the role of police in ensuring access to justice for the victims. Particularly, provide victims with all necessary documents to use as evidence in court, tracking the course of investigation (copies of registered complaint, administrative protocol, emergency barring order etc). Police should inform victims of their right for free legal aid and explain their basic rights as victims of domestic violence.
- Focus specific attention to the identification of children as victims. If necessary, explain adult victims that children-witnesses are also victims of domestic violence.
- Ensure wide information of victims about their rights and services available for them. Particularly, explain the procedure of receiving the emergency barring order, provide corresponding material, set and keep contacts with support services for victims in case the referral is needed.
- Inform victims about mobile response teams in cases of domestic violence.
- Pay more attention to assessing risks in each specific case taking into account the personality of the offender and vulnerability of the victim. Specific attention should be paid to the cases of domestic violence un families

of police officers, militaries and other individuals who are brought to responsibility for domestic violence under disciplinary statutes.

- Ensure necessary measures for the safety of the victims after police departure from the place of the offence.
- Organize regular educational activities for raising competencies of the police officers on domestic violence issues, as well as application of the law against domestic violence.

COVID-19 effect on the response to domestic and gender-based violence

COVID-19 pandemic made a big influence on life and activity of people, institutions, society and state in general. The whole world experiences the significant growth in cases of domestic and gender-based violence.

UN Secretary General Antonio Guterres was the first to officially report the increased number of domestic violence against women during lockdown²⁵.

According to the United Nations Population Fund (UNFPA), in the first three months of the lockdown the whole world witnessed the increased number of domestic violence between intimate partners up to 20%²⁶, and every next three months of the lockdown would result in 15 million more cases of gender-based violence²⁷. UN Women²⁸ and UNICEF²⁹ also reported an increased number of domestic violence cases seen in the first months of the lockdown from 25% to 250%. At the same time the number of registered cases reportedly might not reflect the true picture, since many women were locked with their offenders and were not able to report their problem to the respective services as in pre-lockdown times. Generally, the number of gender-based and domestic violence during COVID-19 pandemic increased so significantly that the phenomenon has come to be called the “shadow pandemic”.

The majority of international and civil society organizations report about difficulties in the work of support services for victims of domestic violence³⁰.

During COVID-19 pandemic and quarantine Ukraine has not only faced the increase of domestic violence cases, but also complications in support services operation (courts, law enforcement, healthcare institutions, specialized support services for victims), and limited access to respective services.

Such tendency was registered by hotlines of CSO “La Strada-Ukraine”. Indeed, comparing to the same period before lockdown the number of calls to the National Toll-Free Hotline on Prevention of Domestic Violence, Human Trafficking and

25 https://twitter.com/antonioguterres/status/1246973397759819776?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1246973397759819776%7Ctwgr%5E%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fwww.dw.com%2Fuk%2Fhensek-oon-zaiavyv-pro-zbilshennia-vypadkiv-nasylstva-nad-zhinkamy-cherez-karantyn%2Fa-53026725

26 <https://www.ua.undp.org/content/ukraine/uk/home/blog/2020/dafina-gercheva--covid-19-pandemic-puts-spotlight-on-domestic-vi.html>

27 https://www.unfpa.org/sites/default/files/resource-pdf/COVID-19_impact_brief_for_UNFPA_24_April_2020_1.pdf

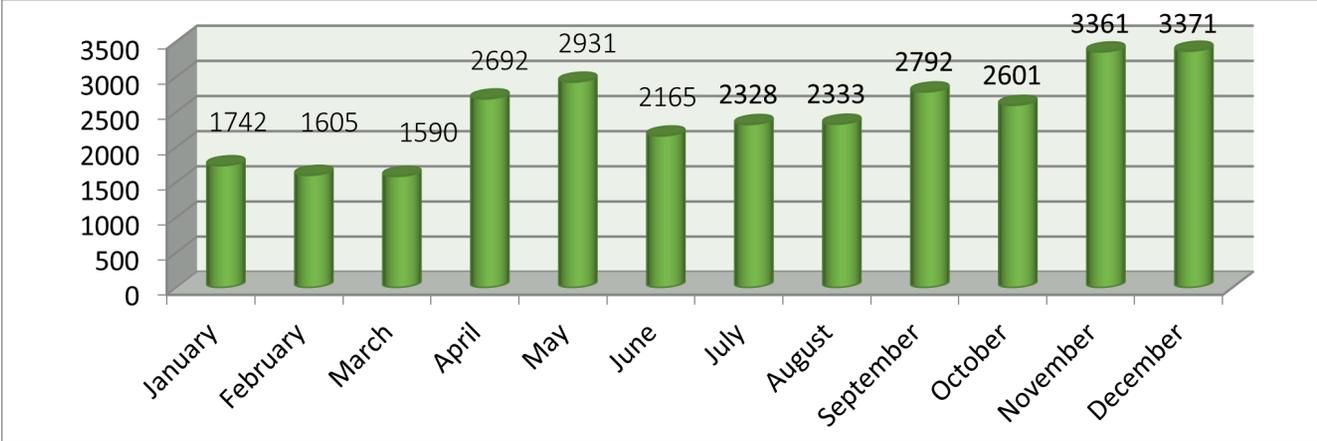
28 <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/policy-brief-the-impact-of-covid-19-on-women-en.pdf?la=en&vs=1406>, p. 17

29 <https://www.unicef.org/media/76916/file/Gender-Based-Violence-in-Emergencies-CP-Learning-Brief-Aug-2020.pdf>, p. 3

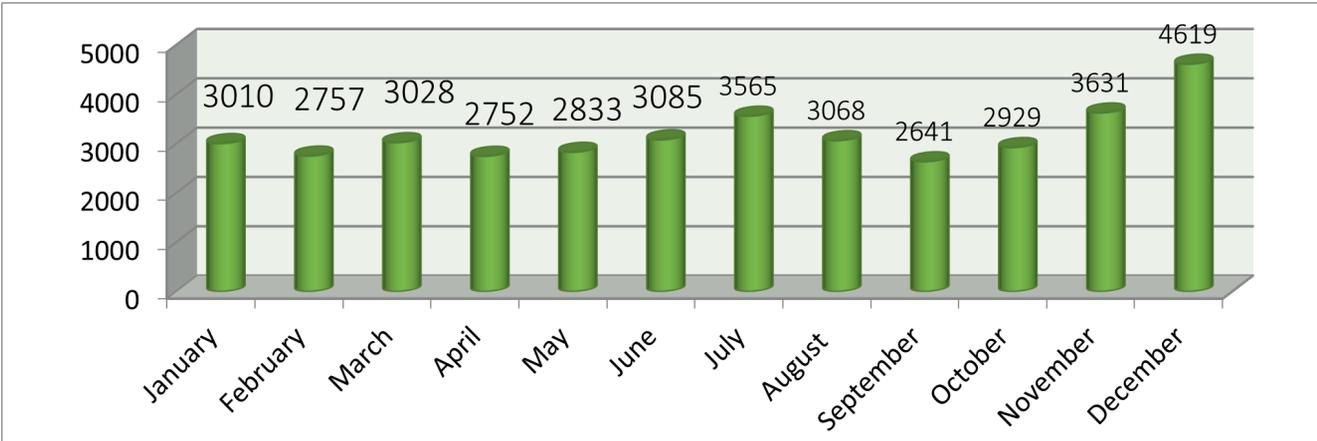
30 <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/brief-covid-19-and-essential-services-provision-for-survivors-of-violence-against-women-and-girls-en.pdf?la=en&vs=3834>, p. 3

Gender Discrimination increased one and a half to two times. Particularly large growth was seen in the first months after the start of quarantine restrictions, as well as during periods of increasing incidence of COVID-19. While in January-March 2020, before lockdown, the hotline usually received 1600-1700 calls per month, in April 2692 calls were received, in May – 2931 calls. Further analysis of calls in 2020-2021 confirmed the link between strengthening quarantine restrictions and increased number of the calls on domestic violence.

Statistics of calls on the HL by months, 2020



Statistics of calls on the HL by months, 2021

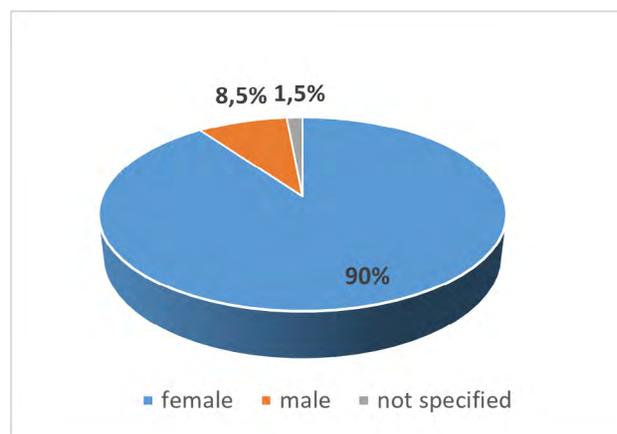


Survey «State actors' response to the cases of domestic violence during crisis (COVID-19, in particular) and recommendations for improvements»³¹

In order to find out the specifics of the response of state authorities, general and specialized services (police, courts, social services, shelters, medical institutions, etc.) to cases of domestic violence during the COVID-19 pandemic, CSO "La Strada-Ukraine" in October 2020-March 2021 conducted a survey of the National Hotline for Prevention of Domestic Violence, Human Trafficking and Gender Discrimination and the National Hotline for Children and Youth. The survey was conducted over the phone and online and included only adult clients who were victims of domestic violence.

303 people took part in the survey.

The majority of people interviewed were 31 to 40 (39.6%) and 41 to 50 years old (29.4%). Relatively small number of respondents were at the age 51 to 60 (13.2%), 19 to 30 (8.9%) and 61 to 70 (5.9%). The smallest number of people interviewed were over 71 years old (2%).



Agencies' response

Courts

Since the introduction of quarantine measures in Ukraine (March 12, 2020), only 18 (5.9%) of 303 respondents, have applied to the court for a restraining order. The majority of respondents who did not apply for restrictive order, namely 135 people (44.5%) of 285, did not apply because there was no need. 46 respondents (15.2%) did not apply because they did not believe in a positive decision in their case, 10 respondents (3.3%) did not know about the existence of such a mechanism to protect their rights. 2 respondents noted that it was difficult for them to move independently, especially in quarantine conditions. Another respondent

³¹ https://la-strada.org.ua/wp-content/uploads/2021/06/analitychnyj-zvit_15.06.21.pdf

stated that she felt sorry for the offender because he would have nowhere to go during the lockdown.

Analysis of the respondents' responses to this question shows that the people mostly did not apply for restrictive orders, did not believe in the justice system, or wasn't sufficiently informed of existing mechanisms of protection from domestic violence. Moreover, lockdown restrictions also influenced the eagerness of the victims to go to court. In cases where victims applied to the courts for restrictive order, in general, the 72-hour deadline for consideration of such appeals was observed and there were no special difficulties with access to the court to file an appeal. Appeals for restrictive orders were heard in the courtroom in the presence of the parties.

Certain respondents reported difficulties in registering their appeals in the court, as well as difficulties related to public transport being closed. They had to look for alternative ways to get to the court.

In general, the results of the interviews did not show many cases when the court delayed considerations of appeals. The majority of claims were concerning the limited access to the courtroom due to closed public transport and courts for lockdown. When the courts are closed and do not see visitors in person, the victims have to send their appeals by mail. And the time for mailing is not taken into consideration. Besides, there is always a risk of losing the documents in the mail. Domestic violence cases have shortened time limits for consideration (not more than 72 hours). Hence such delays in their consideration are unacceptable, since the victims are forced to stay in one household with their offenders the whole time, which is dangerous. Therefore, this aspect should be taken into account in planning state actors' responses to domestic violence in critical situations.

Police

220 respondents (72.6%) of 303 interviewed reported the domestic violence incident to police. Those who did not make the report to police, shared that they were afraid to implicate the relationships with the offender (60), and did not trust the police (18). 177 (80.5%) of 220 people who were interviewed and said they made the report to police, made it via 102 phone line, 31 of them (14%) made a written report, and 12 people (5/5%) contacted their district police officer.

144 of 220 respondents (65,5%) informed that the police responded to their report about domestic violence, 76 (34,5%) said, police did not respond. At the same time, when the forms of the response were defined, only the half of respondents (57 people) reported that police accepted the statement and acted further (opened the administrative proceeding, criminal proceeding or issued the emergency barring order), the other half (59 people) informed that police only accepted the statement, however no further response was made. The victims claimed that even when the police arrived, they only talked and warned the offender; or the police issued an emergency baring order, but did not accept the statement, or on

the contrary – accepted the statement, but did not issue an emergency barring order. Moreover, in many cases victims complained that the police openly sided with the offender, depreciating the situation and suffering of the victim, advised the offender to make counter-complain or qualified the situation as “family matter”, which was not their business; or even fined the victims for false report. Some respondents reported cases of corruption. There were other violations from police side:

Questionnaire 73. The respondent complained that the police threatened her with the possibility of being charged as an offender and losing custody over her children. They refused to draw a protocol.

Questionnaire 101. The respondent informed she was forced by police to take her report back.

20 of respondents who complained about the lack of police response said they did not accept the statement, another 20 said that police didn't even come. 128 people interviewed sensed that police took their matter seriously, 80 did not feel this way. In the majority of cases by the unserious attitude the respondents meant the situations, when the police considered the domestic violence episode as the family dispute; fined the victim for false reports; did not consider the situation as violent because of the lack of signs of beatings; blamed the victim for provoking etc.

Questionnaire 38. The police interviewed the victim for a long time, asking for many details, and then asked to wait for POLINA. The woman was left on the street with a child at 22.30.

Questionnaire 81. After the emergency barring order was issued, the offender did not comply with it. The respondent called the police; however, the violation was not registered.

Questionnaire 155. The victim needed medical attention at the moment the police arrived. However, the police officers did not offer assistance, nor did they accept the appeal.

156 respondents said the police interviewed them without the offender, 49 – in one room with the offender. At least 6 respondents said the police did not interview them at all. Only 37 of 220 interviewed (18.8%) informed that police issued the emergency barring orders, 23 of them were issued upon the request of the victim, 14 – by police initiative. Only in 15 cases (6.8%) the respondents mentioned that before denying the emergency barring orders the police made a risk assessment, 84 respondents (38,2%) said, no risk assessment was made. Respondents complained that the police either did not provide them with information on the existence and grounds for such orders, or openly misinformed them about the possibility of obtaining them (for example, that the police do not have the

authority to issue emergency barring orders, such orders are issued only after 3 calls, or that they are issued only by the court). Here is an example:

Questionnaire 157. The respondent was abused by her husband. The man had an unregistered gun and threatened to kill her with it. The police told the respondent, they couldn't do anything since the offender denied everything, and the order could only be issued by the court.

In some cases, the respondents complained, that the emergency barring order the implementation of which cannot be ensured by police, is not effective:

Questionnaire 238. The hotline received a call from a father whose daughter is systematically abused by her husband. They live separately, but they have a common child. The police stopped responding to the reports of the woman, they didn't come, accepted reports, but those reports never came to the police office. The emergency barring order was issued, violated numerously with no reaction from the police.

In some cases, the police directly linked the refusal to issue emergency barring order with the lockdown restrictions:

Questionnaire 137. The respondent reported that police officers refused to issue an emergency barring order, since the offender said he was ill at the time. The police officers explained that during lockdown they cannot oblige a person to leave home. In the course of the consultation, it became clear the man had no documents or medical records proving his disease.

Questionnaire 240. The respondent informed that the police said that emergency barring orders during lockdown can only be issued in certain cases.

The lockdown itself affected the behaviour of the victims as well, in terms of self-protection methods. For instance:

Questionnaire 254. The respondent asked the police to not issue the emergency barring order, since her son had nowhere to go, because everything was closed.

In certain cases, the respondents reported cases of domestic violence in the families of police officers and militaries left without any police response.

Questionnaire 245. The respondent is abused by her husband, who works for the police. After report to the police, they refuse to respond, since his friends work there.

Questionnaire 248. The respondent with the child 1.5 years old reported being abused by her husband – military officer.

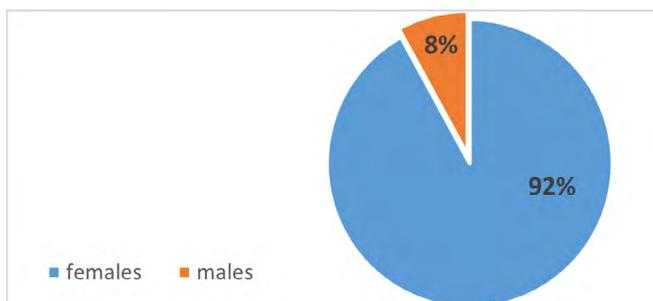
On 1 July 2021 Ukraine adopted the Law on “Amendments to the Code of Ukraine on Administrative Offences strengthening the punishment for domestic violence

or gender-based violence” which set out the general administrative liability for people who were previously held liable under disciplinary statutes”. This is extremely important changes in order to protect victims of domestic violence.

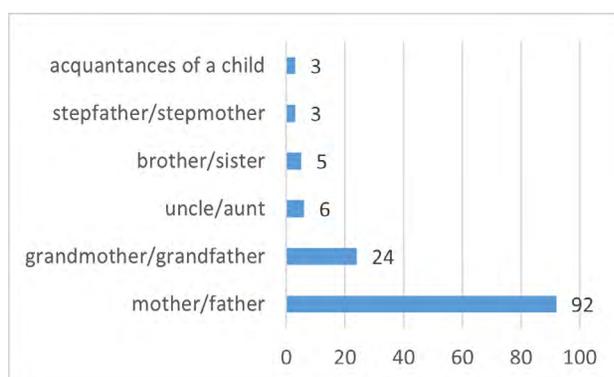
The police officers also suffer from domestic violence. Indeed, a respondent reported being abused by her ex-husband, though she is a civil activist and works on the 102 line over a year. At the moment of the call, she was waiting for the district police officer. The victim of another case of domestic violence mentioned being law enforcement specialist:

Questionnaire 198. Law enforcement officer reported being abused by his wife. Numerous calls to police ended in issuing temporary protective orders for both partners (limited communication). Once he was even brought to the disciplinary liability (reprimand). A woman threatens him to go to his boss and make a complaint, if he continues reporting and making her to blame. The man was demoralized and needed help.

The National Hotline for Children and Youth conducted a survey to find out the impact of the COVID-19 pandemic on the situation of domestic violence against children and to determine the effectiveness of the response of public authorities, general and specialized services (including police, courts, social services, shelters and medical institutions) in cases of domestic violence against children. The survey was conducted among adults who contacted the hotline about cases of domestic violence against children. A total of 133 people took part in the survey. Among them:



The offenders were related to the child as: the vast majority of the respondents were mothers / fathers - 92 people (69.2%), grandparents - 24 people (18%), aunts / uncles - 6 people (4.5%), sisters / brothers - 5 people (3.8%). Three respondents (2.3%) stated that they were the child's stepfather or a civilian husband / partner of the child's mother, and three more were acquaintances of the child.



Almost two-thirds of the complaints concerned girls (64%), and only one-third (36%) – boys.

67 respondents (50%) of 133 reported that they had informed the police about the fact of domestic violence against a child since the introduction of quarantine measures in Ukraine (March 12, 2020). 55 people called 102, 7 people with a written statement, and the remaining 5 contacted a district police officer.

Among those who did not contact the police about child abuse, 28 respondents said they did not do so because they feared the complication of the situation with the offender, 25 - did not contact because they did not trust the police.

43 out of 67 respondents (64.2%) who reported domestic violence against a child to the police said that the police responded to their report. Sixteen of these individuals reported that the police had accepted the statement and responded, namely, an administrative offense had been compiled, criminal proceedings had been instituted or an urgent injunction had been issued. Another 24 respondents said that the police accepted the statement, but there was no further response. In two cases, the police came on call and held an explanatory talk (in both cases, the child's mother was the offender). 24 respondents reported that the police did not respond to reports of domestic violence against the child. 8 respondents stated that their statement was not accepted. 7 respondents indicated that the police did not arrive on call, 1 person stated that the police arrived on only one of the three calls. Two respondents stated that although the police had accepted their statement about domestic violence against adults, the statement did not state that children had also suffered or witnessed such violence. In another case, a mother and her 15 years old son were abused. Upon the arrival of the police, the mother decided not to write a statement. Although the son expressed a desire to write a statement, the police denied this and explained it as him being too young.

Only 21 (31.3%) of the 67 respondents, who reported domestic violence, said the police asked whether the child had also been abused or witnessed violence. 44 respondents (65.7%) reported that the police did not ask them about it. Another 2 respondents (3%) complained that although they asked the police to register the child as an abused person in the administrative record, to recognize him as a victim in criminal proceedings or to issue an emergency barring order for the child, the police did not do so.

Also in some cases, respondents noted that the police accept complaints of domestic violence against a child, but do not notify the children's service of such cases as required by the law.

Courts

Among 133 respondents since the introduction of quarantine measures, only 6 (4.5%) applied to the court for a restraining order, which covered all or at least some measures concerning a child. Another 7 people (5.3%) stated that they had

applied for a restraining order due to violence against an adult, but did not ask for measures to protect the child, although the child was directly affected by or witnessed the violence. 120 respondents (90.2%) reported that they did not apply for a restraining order at all. Respondents found different justifications for this. In particular, 69 people stated that they did not see the need for this, 23 did not know about such a protection mechanism, 12 did not believe that the court would make a positive decision, 2 - due to limited access to courts during quarantine measures. One respondent reported that she feared the situation with the offender would escalate if she went to court. In another case, the respondent, mother to the abused child, stated that she could not go to the city to go to court due to financial reasons.

The survey identified at least four cases when a child wished to go to court to obtain a restraining order on his or her own when his or her legal representatives were unable or unwilling to act on his or her behalf, but could not do so due to limited civil capacity. In three cases, adult respondents stated that they could not go to court because they were not legal representatives. In one of these cases, the child's grandmother called the hotline, and in two others, neighbours / acquaintances of the family.

In accordance with the general provisions of Art. 47 of the Criminal Procedural Code of Ukraine "minors between the ages of fourteen and eighteen may personally exercise civil procedural rights and perform their duties in court in cases arising from the relationship in which they personally participate, unless otherwise provided by the law. In such cases the court may involve the legal representative of a minor or a person whose civil capacity is limited". At the same time, according to Art. 350-2 of the Civil Procedure Code (CPC) of Ukraine and Art. 26 of the Law of Ukraine "On Prevention and Counteraction to Domestic Violence", in case of domestic violence against a child, parents or other legal representatives of the child, relatives of the child (grandmother, grandfather, adult brother, sister), stepmother or the child's stepfather, as well as the guardianship authority, may apply to the court for a restraining order. Therefore, the opportunities for a child victim of domestic violence are quite limited, especially in circumstances where his or her legal representatives or other relatives are the offenders or for some reason do not want to take appropriate special protection against domestic violence. Hence, minors have fewer opportunities to exercise their rights.

Moreover, the analysis of the answers of the respondents shows that many of them (23 people or 19.2% of those who did not apply for a restraining order) are unaware of the possibility of obtaining a restraining order or that such a document can be obtained to protect a child. Also, a significant percentage of those who said they did not see the need for a restraining order (69 people or 57.5% of those who did not apply for a restraining order) may indicate an inability to properly identify violence against a child or the severity of its impact on a child, unwillingness or inability to be guided by the interests of the child in relations with the offender, insufficient awareness of the phenomenon of domestic violence and its consequences for children, etc. Three of the six persons who ap-

plied for a restraining order to protect the child stated that their application had been considered within 72 hours, as required by the law. One respondent stated that the consideration of the application lasted 4 days, another - that the court hearing was scheduled 17 days after the submission of the application. Three respondents noted that the filing and consideration of the application by the court took place remotely, another person reported that the hearing of the case on the issuance of a restraining order took place in the courtroom in the presence of the parties.

Recommendations of the survey

Based on the analysis of the results of surveys and online discussions with representatives of public authorities and civil society organizations, a number of recommendations for public authorities and, in particular, subjects implementing measures to prevent and combat domestic violence and gender-based violence, was developed. These recommendations can be used to improve the response to domestic violence in Ukraine in the context of the COVID-19 pandemic, as well as in other crises and emergencies. These recommendations are consistent with the objectives and activities of the State Social Program for Prevention and Counteraction to Domestic Violence and Gender-Based Violence till 2025.

Cabinet of Ministers of Ukraine:

1. Amend civil procedural law to allow children over the age of 14 to go to court on their own to obtain a restraining order in case of domestic or gender-based violence (as provided in the general procedure of Article 47 of the CPC).

Ministry of Interior of Ukraine:

1. Introduce a system of electronic channels to receive complaints and reports about domestic violence (text messages, online chats, etc.), which would be an alternative to calling 102 or submitting a personal application to the department, and analyse their effectiveness. Such a system is crucial in any critical situation, especially during lockdowns, curfews, etc., when the population is advised to stay at home and, accordingly, the victims, being constantly under the control of the offender, do not have the opportunity to use a telephone³². Moreover, it will take into account the needs of less mobile groups, as well as provide better opportunities for children whose parents abuse them and / or do not want to contact the police.

2. Develop and implement a special enhanced police response mechanism to domestic violence in crises and emergencies, such as the COVID-19 pandemic, with a special focus on affected children. Make changes to the Procedure for Risk Assessment of Domestic Violence. According to the analysis of the legislation on prevention and counteraction to domestic violence adopted during the quarantine restrictions, the context of the pandemic was not taken into account. However, the actual data obtained for more than a year of quarantine measures in Ukraine show a significant increase in cases of domestic violence. Furthermore, victims face increased risks due to the quarantine restrictions, namely - round-the-clock stay in the same house with the offender, challenges with accessing specialized support services, restrictions on movement, etc. Therefore, it is necessary to

³² Similar recommendations have been repeatedly made at the international level. In particular, the importance of the introduction of alternative channels for reporting domestic violence cases was mentioned in her address to the Member States of the European Union by the Chair of the European Parliament's Committee on Women's Rights and Gender Equality Evelyn Regner. (<https://www.europarl.europa.eu/news/en/press-room/20200406IPR76610/covid-19-stopping-the-rise-in-domestic-violence-during-lockdown>)

develop special instructions / guidelines that the police can follow in case of crisis situations, such as the COVID-19 pandemic, including the revision and amendment of the Procedure for Assessing the Risks of Domestic Violence in this context.

3. Provide training for law enforcement officers on responding to domestic violence in crisis situations, with special attention to identifying affected children. At such trainings, police officers should be explained the impact of crises and emergencies, such as the COVID-19 pandemic, on the domestic violence situation, the increased risks faced by victims in such conditions, and the need to prioritize the safety of victims and the use of special measures to protect victims, including issuing temporary protective order, over the practical inconveniences that such measures may cause to the offender (for example, need to look for another temporary place during lockdown or an increased risk of infection if he temporarily leaves the place of residence, etc.).

4. Improve public awareness of the possibility to use protection mechanisms against domestic violence, such as a restrictive order, and especially that such an order can also be obtained to protect a child.

Judiciary:

1. Optimize the work of the judiciary in dealing with domestic violence cases, in particular when considering applications for restrictive orders, especially under lockdown. It should be borne in mind that, unlike other categories of cases, the term of consideration of this category of applications is shortened (they must be considered by the court within 72 hours), due to the existence of potential danger to life and health of victims while they remain in the same room with the offender and the offender has free access to them. Therefore, for this category of cases it is necessary to provide additional opportunities to ensure access to courts both by improving the system of electronic justice and providing better physical access to court, for example, by prioritizing the consideration of such cases in court (at the request of the applicant), urgent registration and consideration of applications for the issuance of restrictive orders by the court (in particular within 24 hours), if such applications were received by mail, etc.

2. Improve public awareness of the possibility to gain protection against domestic violence, such as a restrictive order, and especially that such an order can also be obtained to protect a child.

STRENGTHENING COMPETENCIES OF THE JUDICIARY SPECIALISTS

Regular training of justice professionals on the special nature of domestic and gender-based violence cases remain an important component of an effective judicial response and access to justice. Such specialized training events were conducted by the institutions directly responsible for training and improving qualification of justice professionals, and actively supported in the recent years by such bodies as the EU project Pravo-Justice, the Council of Europe, the European Union Advisory Mission, the OSCE Project Coordinator in Ukraine, the Canadian-Ukrainian Judicial Reform Support Project, the USAID, UNFPA, UNICEF and others. Civil society organizations are also active in strengthening the competencies of the criminal justice specialists. Significant changes in national legislation in the field of combating domestic violence, which took place during this period, also raise the need for training for specialists in the criminal justice system.

National School of Judges

In order to strengthen the capacities of judges the National School of Judges developed, piloted and institutionalized a number of training courses tackling the judicial response to cases of domestic and gender-based violence.

In 2018 the National School of Judges of Ukraine has developed, tested, and implemented a training course for judges on "Peculiarities of consideration of domestic violence cases", as well as trained judges on this topic. This activity was carried out in collaboration with both "La Strada Ukraine" and DCAF with the support of the EU Project "Pravo-Justice", the USAID New Justice Project and the European Union Advisory Mission. The course was aimed improving knowledge of judges about theory and practice of handling domestic violence cases in accordance with international standards; developing practical skills to consider domestic violence cases.

The training course for judges on Special Considerations in Hearing Gender-Based Crimes was developed and tested in 2019. This activity was also carried out in cooperation with the CSO La Strada-Ukraine and DCAF within the framework of the EU Project Pravo-Justice.

The design and approbation of the course demonstrated that although this topic is challenging, it is highly relevant for the judges, especially given the changes to the national legislation and to the Criminal Code of Ukraine.

The training course "Hearing criminal proceedings on domestic violence" developed by the National School of Judges with support of Canadian-Ukrainian Judicial Reform Support Project (2019-2021), which was based on studying Cana-

dian experience on implementing integrated approach to hearing domestic violence cases, and was focused on national judicial practice related to criminalization of domestic violence. The course was developed involving multidisciplinary team of experts, including project experts, and authors and trainers of the mentioned course.

In 2021 the National School of Judges developed a distant training course for judges “Specifics of hearing crimes against sexual freedom and sexual integrity of the person”.

Together with other representatives of the criminal justice system (employees of the court offices, prosecutors, representatives of the National Police of Ukraine and the system of free legal aid), judges, including authors and trainers of the above-mentioned courses, were actively involved in the initiative to conduct the training course "Training of trainers for the implementation of services for vulnerable categories of court visitors" (2020-2021). This course is part of the activities under sub-component of the EU Project "Pravo-Justice" “Model courts”, which aims at improving the system of courts operation and customer service and the provision of court services; improving the quality of work with vulnerable groups of the population who apply to the court, improving the safety of judges, staff and court visitors, etc.

The course is taught in the format of a series of thematic webinars and aims to train trainers who will be able to independently transfer the acquired special professional knowledge and skills to their colleagues in order to spread the best European practices in ensuring access to justice for vulnerable court visitors. The training also focuses on attention to interaction and communication with victims of gender-based, in particular, domestic and sexual violence, with child witnesses, etc.

Synergy of the mentioned courses, involvement of experts and trainers to the development of the course, use of the already existed materials, monitoring results, conducted within the Project, and other analytical materials on the topic, ensure comprehensiveness and thoroughness of the developed courses, increasing number of trained judges-trainers, and spreading expertise on this topic in professional circles, building the professional community in the criminal justice sector.

Prosecutors’ Training Centre

Involvement of the prosecution specialists to combating domestic violence is an important achievement, since until 2018 prosecution wasn’t appropriately involved to working with this category of cases. Thus, the prosecutors objectively lacked understanding of their role and functions in this activity.

Cooperation with the Prosecutors’ Training Centre (former National Prosecutors Academy) goes back to 2018, when there was developed the lecture-discussion "On the role of the prosecutor in combating domestic violence," aimed at reveal-

ing the role and limits of the prosecutor's activity in combating domestic violence and providing recommendations on the application of new legislation by prosecutors in view of their competency in the field of domestic violence. In 2019 scientific and practical manual” Role of the Prosecutor in Preventing and Combating Domestic Violence” was prepared and published. This manual examines special procedural activities of the prosecutor in the field of combating domestic violence, overviews the relevant criminal law, administrative procedures and evidence matters in such criminal proceedings, covers special considerations for dealing with victims, and includes analysis of international law and novel national legislation in this field.

In 2020 the Prosecutors’ Training Centre in cooperation with the involved experts developed online-training on “Prosecution response to domestic violence”, which was provided for trainees in 2020. The training aimed at strengthening professional competencies of the prosecutors in their work against domestic violence and their participation in criminal proceedings on administrative offences in domestic violence cases.

Furthermore, the offline training course was developed on “Responding to the cases of domestic violence: cooperation between prosecution and National police”, which includes a set of legal amendments and tools of prevention and counteraction to domestic violence, and the system of new special measures for law-enforcement practice, criminal responsibility for domestic violence. All this requires improvement of standards for professional competencies of the prosecutors and judges, as well as new effective mechanisms of cooperation. The course aims at raising professional competencies on domestic violence theory, its relation to gender, its proper identification and qualification, introducing international standards in combating domestic violence. In December 2021 the training for trainers was conducted. Specialists of oblast prosecution offices, Chief units of National Police of Ukraine, who will train other criminal justice specialists.

Police

Strengthening competences of the employees of the National Police is also an important part of ensuring an effective response to cases of domestic and gender-based violence.

According to the information of the Ministry of Internal Affairs, educational components on police officers’ performance to prevent and combat domestic violence are included in educational programs for training students of higher education and in training programs for initial professional training of police officers.

Also, activities to strengthen the competences of police officers, both individual and institutional, are actively supported by the OSCE Project Coordinator in Ukraine, UN Women in Ukraine, the UN Population Fund in Ukraine, the Office of the Council of Europe in Ukraine, the European Union Advisory Mission, and

other international institutions in Ukraine. Civil society organizations take an active part in the development and conducting of thematic trainings for these specialists.

According to the information on the process of implementation of Plan of implementation of Biarritz Partnership obligations, which is summarized by the Office of the Government Commissioner for Gender Policy, the Ministry of Internal Affairs, within the cooperation with the above-mentioned institutions, during 2021, 52 trainings on preventing and combating domestic violence were held for heads of sectors for combating domestic violence and police officers working in mobile teams; 9 one-day workshops for law enforcement agencies and the justice sector on effective implementation of legislation on domestic violence and empowerment of victims of domestic violence, as well as women at risk in Donetsk and Luhansk regions, etc. . In the training centres of the National Police of Ukraine, 4,000 police officers received training on preventing and countering domestic violence (these are 1,727 district police officers, 1,221 police response teams of the patrol police, 386 juvenile prevention inspectors, and 666 patrol police officers).

The operators of the 102 police line receive corresponding training, as they are usually first-line specialists contacting with the people reporting domestic violence cases, and their competence to identify victims of domestic violence is extremely important³³. In 2020-2021 training for the 102 police line operators focused on identification and response to the cases of domestic and gender-based violence, and issues of effective response to cases reported by children, particularly in the situations of domestic violence.

At the same time, the analysis of the trainings, cooperation and feedback with the participants allows making the following conclusions:

- strengthening capacities for identification of domestic and gender-based violence cases;
- reducing the influence of personal stereotypes regarding domestic and gender-based violence on the effectiveness of responding to such cases;
- improving the skills of identifying cases of domestic violence against children, in particular children who are witnesses of violence;
- understanding the mechanisms of cooperation with other responsible actors responsible for domestic violence response during decentralization.

Moreover, significant staff turnover in the National Police units creates constant need for systematic training of employees of this sector of criminal justice and institutionalization of this process.

³³ «Monitoring of the situation with the criminal justice system response to domestic violence and violence against women: 2018», and «Monitoring response of the criminal justice system to domestic and gender-based violence: 2019».

OVERVIEW OF THE IMPLEMENTATION OF RECOMMENDATIONS OF THE MONITORING REPORT FOR 2018-2020

Recommendations of the monitoring and analysis of the existing practice is an important part for development and strengthening response of the authorized actors and the state in general to domestic violence cases. At the same time the focus is made on conclusions and recommendations. Monitoring of the progress of the implementation of recommendations might be the indicator of changes in the area.

Recommendation	Status
<i>Judiciary</i>	
To fully and comprehensively review domestic violence cases - the National School of Judges of Ukraine should continue to systematically conduct training courses for judges on “Peculiarities of consideration of domestic violence cases” to ensure the coverage with trainings more judges.	Training course for judges “Peculiarities of consideration of domestic violence cases” developed, institutionalised (2018), and conducted systematically. Training course on “Consideration of criminal proceedings related to domestic violence” developed (2021).
In view of the large number of closed cases related to domestic violence due to insignificance, the judicial branch should pay attention to the inadmissibility of closing insignificant cases when considering administrative offenses.	The number of cases, when the offender avoids responsibility, because the court finds the act insignificant, remains high. This requires more attention from the state and creation of single approach to consideration of administrative offences.
When considering administrative offense materials, pay attention to the inappropriateness of imposing penalties in the form of fines, without taking into account aggregate factors (such as the offender's unemployment, social conditions), since under such conditions the penalty becomes not a punishment but a burden for the family, and in most cases, it is paid by the victim.	Unfortunately, the analysis of the court decisions demonstrates that the fines remain the most frequent form of penalty for the administrative offence under article 173-2 of the Code of Administrative Offence. This issue remains relevant and requires further work and advocacy.

<p>Indicate in the court decision the provisions on the issuance of a restraining order and warning of criminal responsibility of the offender under Art. 390 - 1 of the Criminal Code of Ukraine in case of failure to comply with this order.</p>	<p>In criminal proceedings related to domestic violence, the offenders are not warned for possible restraining order against them. In case the restraining order is issued, the offender is not warned about the criminal responsibility for its violation.</p>
<p>To comprehensively inform victims of domestic violence about the protection of their rights, the courts need to place information boards at their premises about available services for the victims of domestic violence in the region.</p>	<p>Partially. Informational materials are disseminated by courts. Increased attention to the problem raises the number of informational materials, spreads the experience of model courts, improves access to information.</p>
<p>Develop and implement a training course for judges on the peculiarities of handling cases of violence against women and future mobile teams.</p>	<p>2 training courses developed by the National School of Judges: “Proceeding in gender-based crimes” (developed, piloted, trainer trained – 2019-2020) and distant training course for judges “Hearing cases against sexual freedom and sexual integrity” (2021).</p>
<p>To generalize the practice of considering cases concerning the issuance of restraining order, the judicial branch should initiate such a generalization by the higher courts.</p>	<p>Supreme Court set the single approach to application of the law on restraining orders. Indeed, the review highlights important legal conclusions of the Civil Court of Cassation within Supreme Court of Ukraine, prepared based on the hearings of civil cases arguing the restraining order issuance.</p>
<p>Amend part 1 of the Article 15 of the Code of Ukraine on Administrative Offenses to include servicemen, police and other persons covered by disciplinary statutes for responsibility of domestic and gender-based violence to strengthen protection of the rights of family members of these categories of persons.</p>	<p>Amendments made to p.1 art.15 of the Code of Ukraine on Administrative Offence (Law of Ukraine on “Amendments to the Code of Ukraine on Administrative Offence on strengthening punishment for domestic violence and gender-based violence” dated 01.07.2020).</p>

<i>Ukrainian prosecution authorities</i>	
In connection with the introduction of amendments to the Criminal and Criminal Procedural Codes of Ukraine in order to implement the provisions of the Council of Europe Convention on the Prevention of Violence against Women and Domestic Violence, the National Prosecution Academy should introduce a systematic training for representatives of the prosecution offices on the subject and develop an appropriate training course.	In order to train prosecution specialists, the Prosecution training centre (former Prosecution Academy) developed: <ul style="list-style-type: none"> • lecture-discussion "On the role of the prosecutor in combating domestic violence" (2019); • online-training on "Prosecution response to domestic violence" (2020); • offline training course on "Responding to the cases of domestic violence: cooperation between prosecution and National police" (2021).
Analyse the need for active application of restrictive orders by courts to reduce the risks of repeat domestic violence against the victim and promote correction of offender.	According to the monitoring of judicial practice, the application of restraining orders by courts remains at a low level. In criminal proceedings, in which the offender is sentenced to a punishment that is not related to deprivation of freedom, restrictive measures are used extremely rarely.
Explain the right to compensation to the victims of domestic and gender-based violence at the pre-trial stage and during the trial	According to monitoring of judicial practice, compensation for moral and material damage caused by wrongful actions of the offender is extremely rare. More attention is needed to clarify the right to compensation for victims of domestic violence and gender-based violence.
<i>National Police of Ukraine</i>	
Due to the large number of cases of poor registration of the protocols of the offense under Art. 173-2 of the Code of Ukraine on Administrative Offenses, which hinders the judicial review of such cases, the National Police of Ukraine should work with district officers and patrol police officers on	Despite all the efforts, the problem of low-quality documentation of offences remains. There is a need to strengthen the competences of employees of the National Police, conduct joint activities with other subjects of the criminal justice system to exchange information, etc.

<p>the quality of the protocols on committing the offense provided for in Art. 173- 2 of the Code of Ukraine on Administrative Offenses.</p>	
<p>To continue trainings for "POLINA" mobile teams and other categories of professionals to ensure effective response to domestic violence cases and to maintain the rights of victims of domestic violence.</p>	<p>Pilot project "POLINA" (Police against violence) now covers all Ukraine. Mobile response teams on domestic violence continues to develop, staff is selected and trained. The issue of ensuring regularity of such training remains relevant, considering the big personnel turnover in National police and regular trainings for involved specialists. Joint events/working meetings/trainings for the specialists of mobile teams, 102 police line operators, and other related specialists will increase effectiveness of identification and response to domestic violence cases.</p>
<p>Improve training for law enforcement and judges on ensuring access to justice for children-victims of domestic violence.</p>	<p>Prosecution training centre designed and implemented training module on "Judicial practice review in cases of domestic violence, where child is a victim" (2021). Also training course is being implemented on "Some aspects of proving the sexual crimes against a child, particularly, online crimes and child pornography" (2021). This aspect of specialists training remains relevant.</p>
<p><i>Ministry of Social Policy</i></p>	
<p>Ensure that appropriate legislative acts are developed to implement the Law of Ukraine "On Prevention and Countering Domestic Violence" as soon as possible to ensure its implementation.</p>	<p>In 2018-2021 a number of key legal acts were developed to implement this, Law. At the moment, there is a need for monitoring of implementation if these acts, identification and consideration of such challenges in practice, and localization of corresponding legal acts with regards to the process of decentralization.</p>

International and funding organizations

<p>Continue to support advocacy initiatives to ratify the Istanbul Convention.</p>	<p>Advocacy for ratification of Istanbul Convention and implementation of its standards is relevant for Ukraine. In 2021 during the celebration of the 10th anniversary of the Convention, initiatives to support ratification became very active. Civil society organizations, representatives of “Equal Opportunities” conducted a number of awareness and advocacy campaigns. At the same time there was active counteractions against ratification and manipulations on its principle and approaches.</p>
<p>Coordinate initiatives, projects and activities in the field of combating domestic and gender-based violence supported in Ukraine in order to optimize resources, deconflict activities of beneficiaries, ensure complementary outputs and avoid duplication of effort. Institutionalization of training should be prioritized to ensure sustainability of changes, and to promote a cultural shift among professionals.</p>	<p>The topic of combating domestic violence and gender-based violence is relevant in Ukraine and is supported by various donor institutions at both the national and local levels. The issue of coordination and mutual information between the subjects of this sphere remains relevant.</p>

Civil Society Organizations

<p>Analyse court decisions on domestic violence, violence against women and gender-based violence available in open sources to complement the comprehensive monitoring of domestic violence, violence against women and gender-based violence cases.</p>	<p>Expert civil society organizations regularly perform analysis of judicial practice and present its results. Analytical materials in the area are prepared by: CSO “La Strada - Ukraine”³⁴ (“Monitoring of criminal justice system response to cases of domestic and gender-based violence” in 2018, 2019, 2020, 2021, “Analytical report in state agencies response to cases of domestic violence in crisis situations” etc.), JURFEM (study “Access of domestic violence victims to justice during pandemic”, Monitoring of judicial</p>
--	---

34 <https://la-strada.org.ua/download/analitychnyj-zvit-reaguvannya-derzhavnyh-organiv-vlady-na-vypadky-domashnogo-nasylstva-pid-chas-kryzovyh-sytuatsij-zokrema-pandemiyi-covid-19-ta-rekomendatsiyi-shhodo-vdoskonalennya-yihnoyi-roboty>,

	<p>practice in bringing offenders to administrative responsibility for committing domestic violence against a child”, CSO “Women’s Perspectives” (Analysis of judicial practice on issuing restraining orders. Court cases in January-June 2019 from Lviv oblast were analysed), Amnesty International (research «Not private business. Domestic and sexual violence against women in Eastern Ukraine”) etc. At the same time there is a continued need for further support of this analytical activity from funding institutions.</p>
<p>Monitor and analyse whether the interests of victims are upheld as state agencies respond to cases of domestic violence, violence against women and gender-based violence and whether the victims are satisfied with the response.</p>	<p>Working directly with victims, the civil society organizations are able to perform analysis of needs and challenges faced by them in practice. This can be done through analysis of hotline calls, thematic monitoring and hotline and online surveys, among their beneficiaries etc. the results of such analysis are provided to the relevant actors and are actively used to improve the response to domestic violence, justify recommendations and proposals on amendments to the national law etc.</p>