Preventive Activities of the National Police of Ukraine to Counteract Domestic Violence under the Current Scenario

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Abstract
The purpose of the research is to examine the preventive activities of the National Police of Ukraine to counteract domestic violence under the current scenario. The article analyzes the main regulatory legal acts of Ukraine that regulate the adoption of urgent measures to prevent and counteract domestic violence and gender-based violence and protect the rights of persons affected by such violence. The main tasks and methods of the preventive units of the National Police of Ukraine include identification of facts of domestic violence and timely response to them; receiving and reviewing applications and reports of domestic violence, including consideration of reports received by the call center for preventing and countering domestic violence, gender-based violence, violence against children, etc. The methodological basis of the research is presented as comparative-legal and systematic analysis, the formal-legal method, the interpretation method, the hermeneutic method, as well as methods of analysis and synthesis. It is determined that the legislation of Ukraine in the field of countering and preventing domestic violence includes legislative and bylaws, departmental, and regulatory legal acts. It is noted that units of the National Police of Ukraine exercise powers in the field of preventing and countering domestic violence, taking into account international standards for the response of law enforcement agencies to cases of domestic violence and risk assessment. The general and special measures applied to abusers are specified, as well as the specifics of their application by the preventive units of the National Police of Ukraine in the field of preventing and countering domestic violence.

Keywords: Domestic Violence; Tasks; National Police of Ukraine; Police Units; Preventive Activities

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Kegiatan Pencegahan Kepolisian Nasional Ukraina Untuk Melawan Kekerasan Dalam Rumah Tangga Di Bawah Skenario Saat Ini

Abstrak

Kata Kunci: Kekerasan dalam keluarga; Tugas; Kepolisian Nasional Ukraina; Unit kepolisian; Kegiatan pencegahan

Превентивные Мероприятия Национальной Полиции Украины По Противодействию Домашнему Насилию В Сложившихся Условиях

Аннотация
Цель исследования – профилактическая деятельность Национальной полиции Украины по противодействию домашнему насилию при сложившемся сценарии. Основное содержание. В статье проанализированы основные нормативно-правовые акты Украины, которые регламентируют принятие неотложных мер по предотвращению и противодействию бытовому насилию, гендерному насилию, защите прав лиц, пострадавших от такого насилия. К основным задачам и методам профилактических подразделений Национальной полиции Украины относятся: выявление фактов домашнего насилия и своевременное реагирование на них; прием и рассмотрение заявлений и сообщений о домашнем насилии, в том числе рассмотрение сообщений, поступивших в колл-центр по предупреждению и противодействию домашнему насилию, гендерному насилию и насилию в отношении детей и др. Методология: Методологическая основа исследования представлена как сравнительно- юридический и системный анализ, формально-юридический метод, метод интерпретации, герменевтический метод, а также методы анализа и синтеза. Выводы. Определено, что законодательство Украины в сфере противодействия и профилактики домашнего насилия включает в себя законодательные и подзаконные акты, ведомственные и нормативно-правовые акты. Отмечается, что подразделения Национальной полиции Украины осуществляют полномочия в сфере предупреждения и противодействия бытовому насилию с учетом международных стандартов реагирования правоохранительных органов на случаи бытового насилия и оценки рисков. Уточнены общие и специальные меры, применяемые к обжигам, а также указаны особенности их применения профилактическими подразделениями Национальной полиции Украины в сфере предотвращения и противодействия домашнему насилию.

Ключевые Слова: Насилие В Семье; Задачи; Национальная Полиция Украины; Подразделения Полиции; Профилактическая Деятельность
A. INTRODUCTION

Bringing the standards of professional training and official activities for the prevention of domestic violence by the police units carrying out preventive activities of the National Police of Ukraine in line with the generally recognized norms and standards in international relations, as well as the relevant standards of European and other countries is one of the main directions of reforming the law enforcement system of Ukraine. According to the new administrative and territorial structure, the Resolution of the Verkhovna Rada of Ukraine dated July 17, 2020. No. 807-IX “On the Formation and Liquidation of Districts” (Law of Ukraine, 2020) has introduced new organizational and staff changes in the structure of territorial bodies and police units that determine the development and definition of the following categories: goals, objectives of activities, structural and organizational, and competence elements aimed at ensuring human rights and freedoms, the interests of society and the state, and domestic violence prevention.

The works of administrative scientists are devoted to the general theoretical aspects of the organizational and legal basis of the police of Ukraine: Volokitenko I. O. (Volokitenko, 2017), Leheza Ye. O. (Leheza et al., 2022), Halaburda Nadiia, Leheza Yevhen, Chalavan Viktor, Yefimov Volodymyr, Yefimova Inna (Halaburda et al., 2021) and others. As for the study of the goals, objectives, forms, and methods of activity of the units of the preventive service of the National Police of Ukraine for the prevention of domestic violence in the modern Ukrainian administrative legislation and in the context of reforming the system of the Ministry of Internal Affairs (in the future referred to as the Ministry of Internal Affairs) of Ukraine, there are only isolated scientific developments. The article aims to define the powers of preventive police units to prevent domestic violence and to disclose the primary organizational and legal forms, methods, and measures for preventing domestic violence.

B. METHODS

The study is based on the works of foreign and Ukrainian researchers on methodological approaches to understanding the preventive activities of the National Police of Ukraine in countering domestic violence under the current scenario. The application of the epistemological method has enabled to clarify the essence of the preventive activity of the National Police of Ukraine on countering domestic violence, the logical and semantic process - to deepen the conceptual apparatus and to determine the essence of the preventive activity of the National Police of Ukraine on countering domestic violence in the present settings. To get an idea of the specifics of the preventive actions of the National Police of Ukraine to Counteract Domestic Violence under the Current Scenario

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Police of Ukraine in countering domestic violence in the current settings over the past five years, we have analyzed statistical data, which, unfortunately, are not based on all the canons of statistical generalization, since we have not had access to all blocks of information, but thanks to the available data, we have managed to analyze the preventive activities of the National Police of Ukraine in countering domestic violence in the present.

C. RESULTS AND DISCUSSION

Following paragraph 5 of Article 1 of the Law of Ukraine “On Prevention and Counteraction to Domestic Violence”, prevention of domestic violence means the system of measures implemented by executive authorities, local self-government bodies, enterprises, institutions and organizations, as well as citizens of Ukraine, foreigners and stateless persons who are in Ukraine legally, and aimed at raising public awareness of the forms, causes and consequences of domestic violence, forming an intolerant attitude to violent behaviour in private relations, caring attitude to affected persons, primarily to affected children, eliminate discriminatory attitudes about the social roles and responsibilities of women and men, as well as any customs and traditions based on them.

The powers of the preventive units of the National Police of Ukraine in the field of preventing and countering domestic violence include: 1). Identification of facts of domestic violence and timely response to them; 2). Receiving and reviewing applications and reports of domestic violence, including consideration of information received by the call center for preventing and countering domestic violence, gender-based violence and violence against children, taking measures to stop it and provide assistance to affected persons, taking into account the results of risk assessment following the procedure determined by the Central Executive Authority that ensures the formation of state policy in the field of preventing and countering domestic violence, together with the National Police of Ukraine; 3). Informing affected persons about their rights, measures and social services that they may use; 4). Issuing urgent restraining orders against abusers; 5). Taking abusers for preventive registration and conducting preventive work with them following the procedure established by law; 6). Monitoring the implementation of special measures to counteract domestic violence by abusers during their validity period; 7). Cancellation of permits for the right to purchase, store, carry weapons and ammunition to their owners in the event of domestic violence, as well as the seizure of firearms and ammunition following the procedure established by law; 8). Interaction with other bodies that carry out measures in
the field of preventing and countering domestic violence, in accordance with Article 15 of this Law; 9). Reporting to the Central Executive Authority, implementing the state policy in the field of preventing and countering domestic violence, on the results of the exercise of powers in this area in accordance with the procedure determined by the Central Executive Authority that ensures the formation of state policy in the field of preventing and countering domestic violence (Villasmil Espinoza et al., 2022).

Authorized units of the National Police of Ukraine exercise their powers in the field of preventing and countering domestic violence, taking into account international standards for the response of law enforcement agencies to cases of domestic violence and risk assessment. Police officers may enter a person’s home without a reasoned court decision in urgent issues related to the cessation of an act of domestic violence committed in case of immediate danger to the life or health of the injured person.

It's important to note that this is in line with the Ministry of Internal Affairs' Order No. 1044 from December 19, 2017, which says, "On Approval of Instructions for Organizing the Work of Juvenile Prevention Units of the National Police of Ukraine" (Law of Ukraine, 2017). The main tasks are 1). Preventive activities aimed at preventing children from committing criminal and administrative offences, identifying the causes and conditions that contribute to this, and taking measures within their competence to eliminate them; 2). keeping preventive records of children prone to committing offences and conducting individual prevention measures with them; 3). Participation in establishing the child’s location in the event of his/her unknown disappearance or obtaining data for this purpose in the criminal proceedings opened on the child’s strange disappearance; 4). Taking measures to prevent and counteract domestic violence committed by and against children and child abuse; 5). Taking steps to prevent child neglect, including implementing police custody of minors; 6. Carrying out activities to protect the child’s right to general secondary education.

Special measures to combat domestic violence include: 1). an emergency prohibition order against the abuser; 2). a prohibitory injunction order against the abuser; 3). taking the abuser on preventive registration, conducting preventive work with the abuser; 4). referral of the abuser to the abuser program (Leheza et al., 2022).

Following paragraph 16 of Article 1 of the Law of Ukraine “On Preventing and Countering Domestic Violence”, an emergency prohibition order is a particular measure to counteract domestic violence, which is used by
authorized units of the National Police of Ukraine as a response to the fact of domestic violence and is aimed at immediately stopping domestic violence, eliminating the danger to the life and health of victims and preventing the continuation or repetition of such violence (Law of Ukraine, 2017).

This emergency prohibition order is issued if there is an immediate threat to the life or health of the injured person to stop domestic violence and prevent its continuation or recommission immediately. Article 25 of this Law regulates this legal instrument in more detail. Measures that may be applied on the basis of an emergency prohibition order include: an obligation for the abuser (the person who has committed domestic violence) to leave the place of residence (stay) of the injured person; a ban on the abuser from entering and stay in the place of residence (stay) of the injured person; a ban on the abuser in any way to contact the injured person. Concerning minor abusers who have a common place of residence (stay) with the injured person, these first two measures are not subject to application.

It should be noted that the Law of Ukraine, “On Preventing and Countering Domestic Violence,” gives the safety of the affected person priority even over the property rights of persons to housing (Law of Ukraine, 2017). Therefore, part 3 of Article 25 of this Law allows issuing an emergency prohibition order in relation to residential premises that belong exclusively to the offender, provided that such housing is the place of joint residence (stay) of the injured person and the offender. At the same time, the police are empowered to evict the offender from such residential premises, if the emergency prohibition order provides for an obligation to leave the injured person's residence (stay), and the offender refuses to leave it voluntarily. The urgency and out-of-court nature of the adoption determine the validity period of an emergency prohibition order, which is not more than ten days (Leheza et al., 2022).

Consequently, an emergency prohibition order is applied by the police if there is a threat to the injured person and to counter an act of domestic violence immediately. That is, when issuing this order, the person in respect of whom it is given has not been found guilty of committing domestic violence in criminal proceedings or an administrative offence. In general, this approach is somewhat similar to the detention of a suspected person during the commission of a crime or after its commission if the set of signs indicates that this particular person has committed a crime (Article 208 of the Criminal Procedure Code), which takes place before the commencement of a pre-trial investigation (in other words, before the opening of criminal proceedings). By
this analogy, in our opinion, the issuance of an emergency prohibition order should be accompanied by other procedural actions of the police, namely, drawing up a protocol on an administrative offense (Article 173-2 of the Code of Ukraine on Administrative Offenses) or entering information on the relevant criminal offence in the Unified Register of Pre-Trial Investigations.

Unlike an emergency prohibition order, a prohibitory injunction order is issued by the court based on an appeal from interested parties and, therefore, allows for a much more comprehensive range of possible restrictions on the offender's rights, longer periods. In particular, the measures that may be applied to the abuser based on a prohibitory injunction order are: 1). Prohibition to stay in a place of cohabitation (stay) with the injured person; 2). Removal of obstacles in the use of property that is the object of the right of common joint ownership or personal private property of the injured person; 3). Restriction of communication with the injured child; 4). Prohibition to approach a certain distance to the place of residence (stay), study, work, other places of frequent visit of the injured person; 5). Prohibition to personally and through third parties search for the injured person if he/she is at his/her own request in a place unknown to the offender, pursue him/her and communicate with him/her in any way; 6). Prohibition to conduct correspondence, and telephone conversations with the affected person or to contact him/her through other means of communication in person and through third parties.

It is worth noting that the prohibitory injunction order may provide for the application of several of these measures at once. Similarly to an an emergency prohibition order, a prohibitory injunction order may not contain measures that restrict the right of residence or stay of a minor abuser in the place of his/her permanent residence (stay). The issuance of a prohibitory injunction order is carried out by making a court decision in a separate proceeding, for the purposes of which Section IV of the Civil Procedure Code (hereinafter referred to as the CPC) is supplemented with a new Chapter 13. In addition, the issuance of a prohibitory injunction order in a separate proceeding is based on the provision that this proceeding is intended to create conditions for a person to exercise personal non-property or property rights (part 7 of Article 19 of the CPC). The prohibitory injunction order is issued for one to six months and may be extended by the court for a period of no more than six months (Fomenko, 2018).

The Law of Ukraine “On Preventing and Countering Domestic Violence” and the Civil Procedure Code do not allow revoking the prohibitory injunction order, in particular, if a person is found not guilty of committing a
crime or administrative offense. It appears that a possible way to resolve this issue would be to quash the judgment on newly discovered circumstances (Leheza et al., 2022).

All facts of domestic violence, information on the abuser (regardless of his/her consent), as well as about victims (with their consent) are entered in the Unified State Register of Domestic and Gender-Based Violence Cases. Such information is stored in the database: 1 year - in the absence of open criminal proceedings, a court decision on a prohibitory injunction order or administrative penalty, a court verdict of guilty; 3 years – in the presence of a court decision on a prohibitory injunction order or administrative penalty; 10 years - if there is a conviction that has entered into force (Zhukova et al., 2023). In addition, the abuser may be taken on preventive registration, worked with him/her by the police, and sent to undergo a corrections program for a period of three months to one year.

The following measure is taking abusers by a division of the National Police of Ukraine for preventive registration, conducting preventative work with them, which occurs from the moment of detection of the fact of committing domestic violence by them for the period established by law. Removal of the offender from the preventive register is carried out by the authorized division of the National Police of Ukraine, which has ensured the preventive registration automatically after the completion of the established period unless otherwise provided by law. The procedure for taking on preventive registration, carrying out preventative work, and removing the offender from preventive registration is approved by the Ministry of Internal Affairs of Ukraine (Leheza et al., 2020).

In turn, intervention programs for abusive behavior are available as well. The bodies responsible for implementing intervention programs for abusive behavior are local state administrations and local self-government bodies that organize and ensure that abusers complete such programs. The implementation of intervention programs for abusive behaviour in relation to abusers is carried out taking into account children's age and psychological characteristics. In order to prevent repeated domestic violence and ensure the implementation of the intervention program for abusive behavior, the abuser’s child may be temporarily placed with relatives, in the family of a foster carer or in an institution for children, regardless of the form of ownership and subordination, in which appropriate conditions are created for living, upbringing, training and rehabilitation of the child following his/her needs. Intervention programs for abusive behavior are implemented by specialists.
who have received appropriate training. The abuser may be sent by the court to complete the intervention program for abusive behavior for a period of three months to one year in cases stipulated for by law. The abuser should be able to attend the intervention programs for abusive behavior on his/her own initiative voluntarily. In case of failure of the abuser to complete the intervention program for abusive behaviour or evasion from completing the program without valid reasons, the bodies responsible for the implementation of intervention programs for abusive behaviour shall provide within three working days a written notification about this to the authorized unit of the National Police of Ukraine for taking action. Bringing the abuser to justice for failure to complete the intervention program for abusive behaviour does not release the abuser from the obligation to achieve such a program. Suppose an abuser, particularly a child abuser, is brought to criminal responsibility by the court. In that case, he/she may be required to complete a probation program following paragraph 4 of part 2 of Article 76 of the Criminal Code of Ukraine (Fomenko, 2018).

All these preventive measures enable state bodies to quickly respond to the facts of domestic violence, stop its commission, and eliminate the threat of repeated violence. However, applying such measures does not mean that the offender will not be brought to administrative or criminal responsibility if there are grounds.

In order to respect human rights and freedoms, to comply with guarantees for the protection of the rights and interests of persons affected by domestic violence, and gender-based violence, as well as to ensure an appropriate response to cases of such violence, to assist affected persons, to create conditions for each child to exercise the right to grow up in a safe family environment, taking into account the growing challenges associated with the commission of domestic violence, due to the reduction of latency of such offenses, great public response and in order to effectively implement the Decree of the President of Ukraine dated September 21, 2020. No. 398/2020 “On Urgent Measures to Prevent and Counteract Domestic and Gender-based Violence, and Protect the Rights of Persons Affected by Such Violence”, we propose to create sectors for countering domestic violence in the cluster police units designed based on regional centres and cities of Severodonetsk and Mariupol, in the prevention departments, which, in particular, will include police officers involved in working in mobile groups to respond to the facts of committing such offences, which are now successfully operating in the implementation of the relevant project (Leheza, 2022).
We suggest that the staffing table of the specified sector should consist of 10 positions per mobile group (depending on the quantitative load of calls about the facts of domestic violence) at the rate of 1 - Head of the Sector, 1 - Senior Inspector and Inspectors.

Given that not every territorial (separate) police unit, according to the staffing table, has the position of Juvenile Prevention Inspector or only one such position, we propose that the prevention department of district (cluster) departments with the corresponding new administrative and territorial structure of districts create juvenile prevention sectors at the expense of regular positions of juvenile prevention police units (departments) of the police serving the territory of these districts.

At the same time, some of the powers of juvenile prevention at the level of these police units will be performed by district police officers, community police officers (as amended by order of the Ministry of Internal Affairs No. 650 dated July 28, 2017 “On Approval of the Instruction for Arrangement of the Activities of District Police Officers”) and, as an exception, inspectors of the Patrol Police Response Group, in particular:

- Take measures to establish the identity of the child, his/her place of residence, information on parents or persons who replace them, other relatives, and their place of residence (stay), in case of notification of a child left without parental care (in cases that do not require the opening of a criminal investigation and the establishment of intelligence surveillance “Search”);
- Taking measures to take the child away from his/her parents and temporarily accommodate the child following the current legislation in the event of an immediate threat to the child’s life or health;
- Carrying out work to prevent the commission of offences (Leheza et al., 2021).

This distribution of powers will enable the unloading of juvenile prevention police officers in non-critical cases, taking measures for high-quality preventive work, implementing the best international experience of the police in working with children, searching for missing children who may become victims of crimes, identifying offences against children and documenting them. The juvenile prevention sector provides methodological assistance and coordinates the implementation of tasks between the sectors of district police officers, community police officers, and Patrol Police Response Teams.

The Patrol Police Response Division organizes the work of Patrol Police Response Teams (hereinafter referred to as the PPRT) within the district service
area. It provides them with practical and methodological assistance in improving the efficiency of work, interacts in solving these issues with the Patrol Police Response Division of other district units (departments) of the Main Directorate of the National Police in the region, other structural divisions of the National Police, local self-government bodies, enterprises, institutions, organizations of all forms of ownership, citizens. The Patrol Police Response Division should coordinate the PPRTs - teams consisting of at least two police officers who will serve in two shifts of 12 hours a day in the entire District Administration (Department) service area.

Moreover, the territorial police units (hereinafter – the TPU) of the District Police Department (Division), which are located within more than 25 km from the district administration and which provide for service and more PPRTs in one shift, should create the Patrol Police Response Sector (hereinafter the PPRS) consisting of the Head of the Sector, Senior Inspector and Inspectors (Police Officers) of the PPRT. The PPRS will be based on the TPU territory, where their service firearms, special equipment, service vehicles, fuel and lubricants, and service documentation are stored. At the same time, the PPRS will be removed from the subordination of the TPU and directly report to the Patrol Police Response Division of the District Administration (Department). Control over their official activities will be directly carried out by the Head of the PPRS and authorized inspectors of the administrative practice sector.

Under similar conditions, subject to the service for only 1 PPRT in one shift, direct subordination within the service area will be carried out to the Head of the PPRS of the nearest territoriality.

In the TPU's of the District Police Department (Division), which are located within 50 km from the District Administration and which provide for the service of the PPRT in one shift, the Patrol Police Response Sector is not created. The PPRT is based on the territory of TPU, where their service firearms, special equipment, service vehicles and service documentation are stored. At the same time, the PPRT will no longer be subordinated to the TPU and will directly report to the Patrol Police Response Division of the District Administration (Department).

The territory of the police station will be serviced by the police officers of the Patrol Police Response Division and/or the Patrol Police Response Sector closest in terms of territoriality. The load on one police officer of the territorial preventive units and on one patrol police response squad is calculated from the number of people in a specific service area, the number of settlements, the length of the road network, the place of the service area and the state of the
criminal situation. It is proposed to move away from the methodology of calculating 1 PPRT squad per 25 thousand population and, as an example, introduce the calculation of one team per area in square kilometers (Tylchyk et al., 2022).

It is proposed to move away from the methodology of calculating 1 PPRT squad per 25 thousand population and, as an example, to introduce the calculation of one squad per area in square kilometers (Tylchyk et al., 2022).

We propose to expand the functional areas of work of the administrative practice sector, namely on the prevention of domestic violence: ensuring interaction with the duty services of territorial police department (divisions); providing methodological support for the activities of PPRT squads, district police officers, community police officers (hereinafter referred to as squads); ensuring round-the-clock monitoring and control over the official activities of squads, as well as their performance of official tasks, including those created independently; sending, in coordination with the operations duty officer of the district department, orders of electronic official tasks and monitoring their implementation; monitoring the state of administrative activities of both the the District Police Department (Division) and its territorial divisions; within the scope of competence to coordinate with district courts in cases of administrative offences, in view of the fact that the judicial system in practice may not always coincide with the newly formed administrative-territorial structure, this gives grounds to believe that local courts continue to examine cases within previously defined areas (Matviichuk et al., 2022).

When considering the allocation of office space for a police station, the possibility of placing juvenile prevention inspectors, district police officers, community police officers, their assistants, and police response departments in it for joint work and providing them with appropriate conditions for performing their official tasks should be taken into account. The official activity of these structural divisions is organized in accordance with the requirements of the current legislation of Ukraine and departmental regulatory legal acts that regulate the activities of police officers and assign them to police stations and service areas of response units within the amalgamated territorial community.

D. CONCLUSIONS

Prevention of domestic violence is one of the priority areas of preventive police stations, which includes departments of district police officers, juvenile prevention units, patrol police, etc. Ensuring the effectiveness of such activities
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should be accompanied by a noticeable increase in the technical security of the police, increasing the efficiency of work, implementing a number of other organizational measures, improving the legal regulation of activities aimed at countering and preventing domestic violence, which determine the competence and place of preventive units as part of the National Police of Ukraine.

REFERENCES:


