

## Ukrainian Helsinki Human Rights Union

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## Ukraine

### VIOLENCE IN THE FAMILY IN UKRAINE <sup>[1]</sup>

Despite the existence in this field of a large number of laws and subordinate normative legal acts, including the Law «On preventing violence in the family»<sup>[2]</sup>, «On the protection of childhood»<sup>[3]</sup>, the relevant articles of the Criminal Code, the State Anti-trafficking Programme for 2006-2010<sup>[4]</sup>, «On approving Rules of Procedure for people engaged in social work with families in difficult circumstances»<sup>[5]</sup> etc, violence in the family remains a serious problem.

Assessments of the situation can be compared with the data presented in the annual reports «Human Rights in Ukraine» for 2006 and 2007. A good many of the criticisms can be repeated. At the same time certain positive moves were seen in 2008, reflected in considerably more attention being given to attempts to resolve this problem by State authorities, in the first instance the Ministry on the Family, Youth and Sport and the Ministry of Internal Affairs (MIA). Other positive elements were the formulation of comprehensive approaches and strategies for preventing violence in the family, as well as of a new field of activity linked with the adoption by the Verkhovna Rada of amendments to the Law «On preventing violence in the family» and the Code of Administrative Offences.

#### Statistics

According to data from the MIA Department of Public Safety as of 1 January 2009 the police had **85,085** people on their preventive register as having committed acts of violence in the family – 8760 women, 75,750 men and 575 minors.

	Total on the register for violence in the family'	Placed on the register from 01.01.2008	for physical violence	for sexual violence	for psychological violence	for economic violence
total	<b>85085</b>	<b>66119</b>	<b>38741</b>	<b>2</b>	<b>24917</b>	<b>2459</b>

**66,119 people were placed on the register** during 2008. In 2008 **10,257 children** were identified as having been the victims of crimes.

The statistics do not give the gender of the victims of domestic violence which makes it difficult to analyse instances of this offence.

#### Methods used

Official paper over violence in the family	Official warning over victim behaviour	Protection order	Taken off the register	Including for a crime committed	Protocol drawn up – 173.2 in all	Court ruling passed	warning	fine	Community work	Administrative arrest	Released from administrative liability
<b>81971</b>	<b>2674</b>	<b>6394</b>	<b>67796</b>	<b>257</b>	<b>98891</b>	<b>90556</b>	<b>5104</b>	<b>74169</b>	<b>350</b>	<b>10342</b>	<b>591</b>

It is also worth reiterating that these statistics do not reflect the full scale of domestic violence which remains a largely latent phenomenon.

We should also note that unfortunately not all cases of domestic violence are properly looked into by law enforcement officers which victims give testimony to.

*«La Strada – Ukraine» received a letter from Ms R. about unlawful acts on a systematic basis against her by Mr. T., the father of her son who was born in 2005. She stated that Mr. T. had begun systematically beating and tormenting her after the birth of the child and that this was continuing. All appeals by Ms R. to the law enforcement agencies and social services had not had any proper result, decisions had been taken to not initiate a criminal investigation, and they had mainly had preventive talks with her attacker. Such measures in respect to Mr T. made him behave even more aggressively and forced him to fear for her state of health and be on the verge of committing suicide. The situation is exacerbated by the fact that a small child is witness to all of this which cannot but have an adverse effect on the emotional and psychological state of both the child and his mother.*

One of the functions of social service centres for the family, children and youth<sup>[6]</sup> is to carry out social –rehabilitation measures aimed at providing people in difficult circumstances (including who have suffered from domestic violence) with assistance in restoring damaged health, compensation for restrictions on their capacity, and support for an optimum physical, psychological and social level to achieve social adaptation. This is by means of early identification and being placed on the register, social accompaniment and provision of social services aimed at defending the person’s rights and dealing with the circumstances which led to family problems.

During 2008 social service centres for the family, children and youth recorded 3,341 complaints to them about violence of which::

- 2495 were about families where acts of violence had been committed, or there was a real danger of such (there were a total of 3,190 children in these families);
- 839 about ill-treatment of children (120 children who suffered from ill-treatment);
- 4 appeals regarding human trafficking (4 people);

From the overall number of complaints regarding violence against children (or ill-treatment of them), information was sent by the social service centres to services on children’s issues about 757 cases. In addition, 38 people and 47 families (89 children) were sent to centres for social and psychological assistance.

The largest number of complaints (829) of violence or a real danger of such were noted in Kyiv (24.8% of the total number, and the lowest (1 – 0.03%) in Sevastopol.

.776 families (in which there were 1,529 children) were under social accompaniment of social service centres for the family, children and youth, because of violence in the family or a real threat of this (3.1% of the total number of families that are under social accompaniment, of which:

- 432 families (955 children) – were under the accompaniment of district social service centres (of which 40 families, with 100 children, were under the accompaniment of specialists working in branches of district centres);
- 197 families (300 children) – were under the accompaniment of city social service centres;
- 40 families (63 children) – were under the accompaniment of city district social service centres;
- 23 families (23 children) – were under the accompaniment of settlement centres and 70 families (170 children) – village centres.[\[7\]](#).

The largest number (844 people) turned for help over violence or a real threat of such in the Donetsk region (17% of the total number and in Kyiv (786 or 16% of the total number). The smallest number was 14 people, or 0.3% in Sevastopol.

### **Legislative regulation**

On 25 September 2008 the Verkhovna Rada adopted the Law «On amendments to some legislative acts to refine legislation on countering violence in the family»[\[8\]](#), which came into force on 1 January 2009.

This law envisages changes to the Code of Administrative Offences, specifically Articles 173-2, 262, 263 and 277, and the Law «On preventing violence in the family». Among the main changes are the possibility of applying administrative arrest for up to five days with respect to a person who has committed an act of violence in the family; extension of the list of people considered members of the family; introduction of corrective programmes for people guilty of violence in the family, and removal of the provision on liability for victim behaviour, and others.

Unfortunately, the provision on excluding fines as a form of administrative penalty for violence in the family, was not taken into consideration, and instead the size of the fine was increased to ten times the minimum monthly wage. The majority of problems are thus again placed on the shoulders of the victims, and on the family as a whole.

The removal from the Law «On preventing violence in the family» of the provision on issuing an official warning about the unacceptability of victim behaviour is a positive move. Since, in essence, a warning is a type of penalty, the person who was issued such a warning was placed on the police register.

In the previous version of the Law, the opinion regarding the presence of victim behaviour was made by a police officer (district inspector of the police or officer of the criminal police on juvenile matters). Yet a qualified assessment of the presence in the case of a victim of violence of what actively provokes victim behaviour can only be made by a specialist psychologist. Therefore police officers definitely needed to receive an assessment from a psychologist of a specialist institution as to the presence of signs of conscious and deliberate behaviour of this kind

in order to issue a well-founded official warning about the unacceptability of victim behaviour. No such procedure was set out in the previous version of the Law. Moreover such a mechanism is not very realistic in a situation involving domestic violence.

Secondly, via the envisaged warning about the unacceptability of victim behaviour, liability for violence in the family is automatically transferred from the offender to the victim, this being unacceptable in the context of upholding human rights.

During the consideration of the draft law there was active discussion regarding the proposal to force people who have committed acts of violence in the family under the influence of alcohol or drugs to undergo treatment for alcoholism or drug dependency. However this provision was not supported, either by National Deputies or by the human rights community due to its violation of the right to respect for one's private life.

To efficiently implement the new provisions, the Law envisages bringing the normative legal acts of the Cabinet of Ministers, ministries and other central bodies of power, into line with the new Law. For this purpose, the Ministry on the Family, Youth and Sport created a working group of experts to draw up new subordinate normative legal acts on prevention of violence in the family. The working group includes representatives of the State structures involved in dealing with issues of violence in the family, as well as representatives of civic organizations.

### **The National Campaign «Stop violence»»**

As part of the World Campaign to eliminate violence against women initiated in February 2008 by UN Secretary-General Ban Ki-moon, a number of civic organizations<sup>[9]</sup> approached the Ministry on the Family, Youth and Sport with the proposal to hold a national campaign «Stop violence!», aimed at fighting violence against women, children and violence in the family.

The Ministry on the Family, Youth and Sport as the specially authorized body on prevention of violence in the family supported the idea of running the Campaign which began on 15 May 2008 and will last until 25 November 2009 (International Day for the Elimination of Violence against Women).

The objectives of the campaign «Stop violence!» are: to improve the legislative base on issues around combating violence; to encourage national civic leaders and figures with influence on public opinion to publicly recognize the seriousness of such violence; to facilitate awareness among the public that violence is a violation of human rights; develop zero tolerance for violence, work with victims of violence and people who have committed acts of violence in the family.

As part of the campaign «Stop violence!», on 16-17 October 2008 in Kyiv the Ministry on the Family, Youth and Sport, together with nongovernmental and international organizations held a **national forum «Ukraine without violence»**.

As part of this campaign the Ministry on the Family, Youth and Sport, in cooperation with civic organizations, prepared and printed posters and calendars containing information regarding the problem of domestic violence, violence against women, etc, as well as advice and the number of the National Helpline on the prevention of violence and protection of children's rights.

The campaign greatly increased the work of civic and international organizations on combating violence and mainly, activated their cooperation and joint activities. A coalition has effectively been created against violence which has its own electronic mailing which increases the level to which people are informed about the issue, as well as the participation of various organizations

in measures and discussion of issues. This can be seen as a move towards transparency and openness, including among State bodies since representatives of the Department of Family and Gender Policy of the Ministry on the Family, Youth and Sport are also included in it.

The next step should be to create a website «Stop violence!»

*One new feature in 2008 was the involvement of business structures in activities around combating violence. For example, the company «Elivon» began a charitable programme «Against violence in the family» aimed at promoting observance of human rights, provision of social, legal and psychological assistance to women who have suffered domestic violence; overcome violence in the family against women; ensuring that the public are better informed about the issue of violence in the family in order to prevent violence and ill-treatment..*

### **Provision of assistance for victims of domestic violence**

Work on providing assistance to victims of domestic violence is carried out both by State bodies, first and foremost all social service centres for the family, children and youth, as well as nongovernmental organizations.

The main forms of work on prevention of violence in the family and ill-treatment of children of these centres include: socio-legal and psychological consultation; representing the interests of a children or one of the members of a family; referral to State institutions or nongovernmental organizations; the provision of socio-education and psychological assistance.

During 2008 regular assistance (according to cards of receivers of services) was provided to 4,971 people (of whom 1805 were children) who had suffered from violence or who faced a real threat of such violence (including 9 people who approached them in connection with human trafficking), with these received 23331 social services.

As a result of work carried out in 2008, 240 people had documents processed or reinstated; 2095 – social links were organized or reinstated; 102 had studies organized; 48 were set up with a job; 1289 – were involved in rehabilitation programmes; 821 – learned social and everyday skills; 521 – received assistance with medical treatment (examination); 825 received access to better education opportunities or social activity; 100 received registration; 167 – were given training in safe style of life with regard to HIV infection..[\[10\]](#).

At the same time victims of domestic violence encounter considerable difficulties in receiving assistance due to the failings of legislation and the small number of centres where one can get help.

*2008 saw no resolution of the problem with the Kyiv City Centre for Work with Women and the shelter for victims of domestic violence which did not have its lease extended. The attractiveness of Centre at 20 Melnykova St which is effectively in the city centre in a picturesque square have blinded State bureaucrats who prefer to use any measures to gain the property despite the serious social significance of the Centre. The latter has been disconnected from electricity and communications networks, and restricted in financing.*

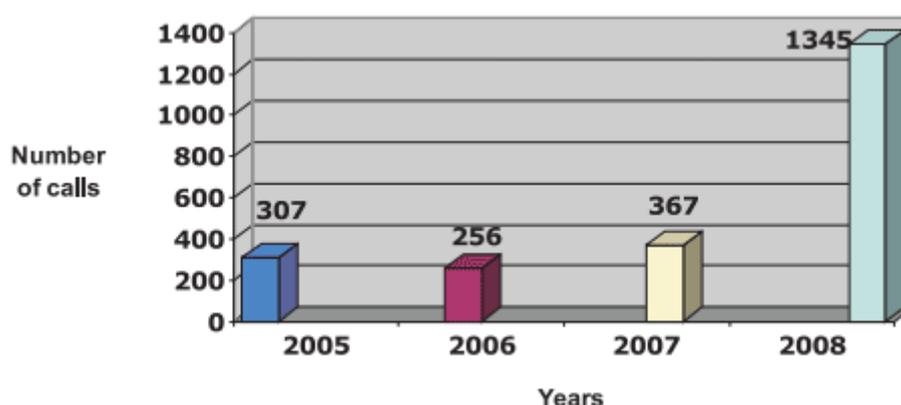
*Civic organizations appealed to the country's leaders over this however the decision of the Shevchenkivsk District Council in Kyiv to hand the premises to a business structure remained in force. This situation could become an example to be imitated in other cities where through subventions to the State budget centres for the mother and child, centres for social and*

*psychological rehabilitation and other institutions providing assistance to victims of domestic violence were created.*

### **National Helpline on the prevention of violence**

In 2008 the National Help Line on Violence and Protection of Children's Rights based at the «La Strada – Ukraine» Centre continued its work. During the year there were 1,345 calls. A considerable percentage of the calls are directly linked with violence in the family (physical, psychological, economic, moral) as well as related problems of a legal nature, divorce, division of property, resolution of housing problems, determining where children are to live, organizing care for children, appeals to the law enforcement agencies. There was a significant increase in the number of calls against the previous year, suggesting that problems like violence in the family are becoming more relevant.

Number of calls Years



It should be pointed out that resolving the situation does not only involve legal consultations. Psychological assistance is also provided and in some cases the caller also needs social aid (being put up in a shelter, etc). Some consultations can last from 40 minutes to an hour.

Of particular concern are calls in connection with the inaction or insufficient fulfilment of their duties by officials of State and law enforcement bodies with competence to resolve particular issues.

The following are typical appeals to the Helpline

*«I just don't know how to go on. My husband torments the whole family. Previously he beat me, but now the children as well. The police do nothing - they don't even come when I call them. What can I do?»*

*«My husband and I are divorced but he lives at my place. He torments me physically and psychologically. I can't get him out.»*

*«My husband beats me. He is now beginning to beat my small child. I want to divorce him but he threatens me. My husband's a police officer and therefore the police ignore my appeals. They answer that there are no elements of a crime. What can I do?»*

*«I have a privatized flat (in my name and my son's). My husband and I are divorced, but we live together. He drinks and beats me. I want to get him out. How can I do it?»*

*«My husband beats me and my child, he threatens and blackmails. I'm frightened to turn to the police because he knows people everywhere...»*

*«The child lives with his grandmother. His mother has not been stripped of her parental rights, but receives alimony. She beats the children. The authorities (the ward council, service on children's matters don't do anything. What can be done?»*

*«My husband is a former MIA employee. At the moment we have very tense relations. He beats me, torments me and exerts moral violence. The district police station says nothing and refuses to initiate a criminal investigation. What can I do, who can I turn to?»*

As can be seen from these examples, almost half of those calling complain that reporting domestic violence to the police is ineffectual. Analogous complaints were heard in 2008 about the Prosecutor's office, the courts, the SBU [Security Service], departments of social security (in the Mykolaiv region), guardianship councils (Vinnytsa), the Pension Fund, regional departments of education (Zhytomyr and the Chernihiv region) and services of the family and youth (Kharkiv) and others.

In November – December 2008 the «La Strada – Ukraine» Centre, together with the MIA Public Safety Department, carried out an action for «16 days against gender violence». As part of this Department staff carried out consultations on the help line. One of the aims of the action was to exchange experience, including the reaction of the MIA to complaints over cases of inaction. However we cannot as yet call work in this direct effective.

Besides lawyer consultations on the Helpline, «La Strada – Ukraine» also receives written appeals. An analysis of these letters suggests an increase in the number of situations linked with violations of children's rights, including cases of sexual violence against children. A considerable number complain of the inaction of the law enforcement agencies (prosecutor's office, police), and cases being dragged out in courts.

## **Recommendations**

1) Improvements are needed to legislation, specifically:

- A change in the name and reformulation of the objectives of the Law «On preventing violence in the family» (The sense of this recommendation is difficult to convey, since the word «prevent» is already a broader term in English. The suggestion is that «combating» would better encapsulate all tasks, those of prevention and or actually stopping what is already happening – *translator*)

- In implementation of the Law «On amendments to some legislative acts to refine legislation on countering violence in the family which came into force on 1 January 2009, new subordinate normative legal acts need to be drawn up setting out the mechanisms for implementation of new provisions of the law, such as corrective programmes with people who commit acts of violence in the family, improving referral mechanisms etc.,.

2) Educational work is needed on the problem of violence in the family and new additions to legislation, ways of resolving the problem, and on the possibility of appealing for assistance

- among the public

- among specialists

3) Special training is needed with specialists, and specifically:

- Employees of Ministry of Internal Affairs bodies
- Social workers
- Judges

4) The MIA should pay attention to the large number of unwarranted refusals to react to domestic violence by police officers and draw up a comprehensive range of educational and control measures to overcome this problem.

[1] Prepared by UHHRU and representatives of the International Women’s Human Rights Centre “La Strada – Ukraine” K. Cherepakha , O. Kalashnyk, K. Levchenko, and M.V. Yevsyukova

[2] <http://www.kmu.gov.ua/sport/doccatalog/document?id=92768>

[3] <http://www.kmu.gov.ua/sport/doccatalog/document?id=92751>

[4] <http://www.lastrada.org.ua/readlaws.cgi?lng=ua&Id=35>

[5] <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=z0824-06>

[6] According to 11.4 of the General Provisions on a Social Service Centre for the Family, Children and Youth, approved by Cabinet of Ministers Resolution No. 1128 from 27 August 2004

[7] Information provided by the Department for Family and Gender Policy of the Minister on the Family, Youth and Sport

[8] “La Strada – Ukraine” followed the draft law for around two years and was one of its creators.

[9] UNDP Equal Opportunities Programme, International Women’s Human Rights Centre “La Strada – Ukraine”, the International civic organization “School of Equal Opportunities”, the international humanitarian centre “Rozrada” and the Information and Consultation Women’s Centre.

[10] Information provided by the Department for Family and Gender Policy of the Minister on the Family, Youth and Sport