

# Administrative Responsibility as a Component of State Policy in the Field of Human Rights Protection in Combating Domestic Violence

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## Abstract

The research is aimed at studying the problems that arise in practice when bringing a person to administrative responsibility for committing domestic violence and improving legislation in this area. During the study of this topic, the following methods were used: dialectical, historical, formal-logical, analysis and synthesis, systemic-structural, logical-semantic, formal-legal, and prognostic. The article identifies and characterizes the main theoretical, legal and practical issues of administrative responsibility for domestic violence, presents the results of a study of the signs of administrative responsibility for domestic violence, analyzes problematic issues that arise during the consideration of domestic violence cases, and develops substantiated proposals for amendments to the current legislation. The materials of the scholarly work are useful for scientists and practitioners who study the issues of administrative responsibility for domestic violence, for planning and forecasting further scientific research, improving legislation in the field of preventing and combating domestic violence, for teachers and students of higher education institutions, as well as for ordinary citizens. The article can be used as a basis for further developments by scientists and practitioners who are engaged in researching the issues of administrative liability for domestic violence, for planning and determining the topics of subsequent scientific works, for developing proposals for improving the regulatory framework for combating and preventing domestic violence, for applicants and teachers in higher legal education institutions, as well as for ordinary citizens.

**Keywords:** Advocacy and Justice Bodies, Civil Process, Domestic Violence, Human Rights, State and Legal Policy.

## Introduction

The relevance and prevalence of the problem of domestic violence is beyond doubt not only for Ukrainian society. The family is the original center of society, but even relatives are not immune from various kinds of misunderstandings. The stereotypical perception of violence as a "personal matter" increased the risk of committing new cases of offenses that threaten not only health, but also human life. Despite the active formation of a cult of respect for a person as an individual, as well as the promotion of gender equality between men and women, frequent cases of violent acts in the family continue in Ukraine. Official data from the National Police of Ukraine show that during 2022, 244,381 calls were received regarding domestic violence, which is 40% more than the number of calls in the previous year (144,394) and 15% more than the number of calls recorded in 2020 (208,748), and

41% more than the number of calls recorded in 2019 [141,814] (1). The obtained statistics give grounds to conclude that in Ukraine, despite martial law, domestic violence is relevant, therefore the prevalence of this problem in society is beyond doubt. In 2023, the number of applications due to domestic abuse increased further and amounted to 291,428 cases. 2,705 cases were opened, of which 2,243 (82.9%) reached court. Since the beginning of 2024, 1,521 criminal proceedings have been opened on domestic violence, which is 36% more than in the same period last year (1). Considering that victims of domestic violence are not only women and children, but also men and the elderly, the issue of preventing and combating manifestations of domestic violence is important in modern conditions and requires a comprehensive and

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systematic solution. In the context of the strategic course for European integration, Ukraine is implementing a set of measures aimed at building a national system for preventing and combating domestic violence. A landmark event was the adoption by the Verkhovna Rada of Ukraine on June 20, 2022, of Law No. 2319 "On the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence" (2). In accordance with the provisions of the aforementioned legislative act, Ukraine has assumed legal obligations to implement the provisions of the Convention into the national legal framework, in particular in terms of ensuring effective investigation of cases of violence, bringing persons guilty of its commission to responsibility established by law, and introducing mechanisms for correcting their deviant behavior. Current national legislation provides for three types of responsibility for domestic violence: administrative, criminal and civil. Of course, most often perpetrators are subject to administrative penalties for domestic abuse, therefore there is an obvious need for scientific research into administrative responsibility as a component of state policy in the field of human rights protection in combating domestic violence. The effectiveness of administrative responsibility measures will depend on clear legal regulation of the procedure for their use and the effective activity of public administration bodies and the court in their application.

The purpose of the scholarly work is to characterize administrative liability as a component of state policy on the protection of human rights in the field of combating domestic violence through the prism of the Code of Administrative Offences. It should be noted that the topic of both domestic violence in general and administrative responsibility for domestic violence in particular is actively being researched by scientists, which indicates that the issues of improving legal regulation of preventing and combating domestic violence have not lost their relevance in connection with the active European integration movement and the need to implement international standards into national legislation. The author of dissertation "Administrative and legal principles of applying special measures to combat domestic violence" (2021) distinguished between the concepts of "combating domestic

violence" and "prevention of domestic violence", defined the term "special measures to combat domestic violence", clarified the conceptual and categorical apparatus of the term system "combating domestic violence", systematized the legislation providing for the application of special measures to combat domestic violence in administrative regulation by subject and subject subsystems, and substantiated the proposal to amend the Code of Administrative Offenses to define an urgent prohibitory injunction as a measure to ensure proceedings in cases of administrative offenses (3).

In her dissertation "Administrative and legal principles of the activities of entities implementing measures to prevent and combat domestic violence" (2021) the author proposed an author's classification of bodies implementing measures to combat and prevent domestic violence: entities of general competence; entities of special competence; entities of optional competence; characterized the role of public institutions in the field of preventing and combating domestic violence and proposed to solve the problem of their financing in order to increase the effectiveness of their activities (4).

In her dissertation "Legal Principles of Protecting Women from Domestic Violence" (2023), the author conducted a comprehensive study of the legal principles of protecting women from domestic violence from the perspective of Ukraine's European integration intentions and the commitments undertaken to implement the Istanbul Convention, and examined administrative responsibility as a type of legal responsibility for committing domestic violence (5).

In the dissertation "Legal Regulation of Protection of a Person from Domestic Violence Offenses", the regulatory and legal support for the protection of a person from domestic violence offenses is clarified; theoretical and methodological approaches to the formation of state policy in the field of preventing and combating domestic violence are formulated; the concept and legal nature of legal protection from domestic violence are defined; the essence and features of administrative responsibility for domestic violence are revealed; the difference between the concepts of "domestic violence" and "abuse" is argued (6).

## Methodology

The research was made possible by the use of general scientific and special scientific methods of cognition, in particular: dialectical, historical, formal-logical, analysis and synthesis, system-structural, logical-semantic, formal-legal, prognostic. Using the dialectical method, social relations in the field of protection of victims of domestic violence were investigated in their unity and interconnection, the patterns of their development were identified, and the dynamics of the development of legislation in this area were considered. The historical method allowed us to study the development of administrative responsibility for domestic violence in chronological sequence (7). The formal-logical method helped to analyze the norms of current legislation that regulate the mechanisms for protecting victims of domestic violence, and to identify the features of the application of administrative responsibility for domestic violence. The method of analysis and synthesis was used to clarify the features and trends of the current state of legal regulation and scientific research of administrative responsibility for domestic violence. The use of the system-structural method allowed us to study the features of administrative responsibility for domestic violence. The logical-semantic method allowed us to develop a conceptual and categorical apparatus that was used in the study. The formal-legal method allowed us to analyze the effectiveness and consistency of laws and regulations in the field of application of administrative responsibility for domestic violence and to identify a number of legal conflicts and inaccuracies. Using the prognostic method, we studied the consequences of adopting proposals to improve the current legislation and making changes to the system of domestic regulatory legal acts regarding administrative responsibility for domestic violence.

The normative basis of the scholarly work is legislation of Ukraine, and the laws of Ukraine that determine the legal principles of administrative responsibility for domestic violence.

The informational and empirical basis of the study is the materials of judicial practice for 2023-2024 in cases of administrative offenses related to domestic violence, statistical data for 2020-2024 on the number of appeals to the police due to domestic violence, statistical data for 2024 on the

number of consideration of administrative cases on domestic violence and the number of administrative penalties imposed for each type separately.

## Results

### The Concept of Administrative Liability for Domestic Violence

Legal responsibility can be characterized as one of the internal aspects of the law and a necessary element of the mechanism of its implementation. Legal responsibility is a multifaceted, interdisciplinary, complex, functional, regulatory and protective institution of legal consolidation and (or) exercising a dynamic influence on important social relations; in the event of a violation, the law regulates the relations of responsibility arising from the legal fact of the offense.

A universal means of protecting public relations is administrative responsibility, which is an inevitable response of the state to the facts of non-compliance or improper compliance by a person with the norms of administrative legislation and is based on the strictest adherence to the principles of humanism, social justice and legality (8). Administrative responsibility should be understood as the application of administrative penalties to persons who have committed administrative offenses. At the same time, such sanctions create burdensome consequences for offenders, which are of a property, moral, personal or other nature and are imposed by bodies or officials authorized by the state, on the grounds and in the manner prescribed by administrative legal norms (9). Researchers also suggest understanding administrative responsibility as the imposition of administrative penalties on offenders of generally binding rules in force in state administration, which entail onerous consequences of a material or moral nature for these persons (10). Focusing on the presence of elements of state coercion in legal responsibility, another researcher defines administrative responsibility as the compulsory, in compliance with the established procedure, application by an authorized entity of the measures of influence provided for by law for the commission of an administrative offense, which are carried out by the offender (11). A detailed definition of administrative liability is offered by another

researcher, who considers it as a set of legal relations regulated by administrative legal norms and arising from the application of special sanctions by authorized bodies (officials) to individuals and legal entities who have committed an administrative offense - administrative penalties, as a result of which the obligation of the person guilty of committing an administrative offense to suffer the negative consequences of a moral, material or personal nature provided for by current legislation is realized (12).

Being an important legal means of ensuring law and order in general, administrative responsibility is designed to prevent and deter future offenses, and not only to perform a punitive function and prevent future repetition of offenses. It is especially important to achieve this task in cases of a person committing an administrative offense such as domestic violence (13).

The following are the features of administrative responsibility for domestic violence:

- is defined by regulations and established by law;
- is characterized by state and public condemnation;
- is of a public nature, because it acts on behalf of the entire society;
- is a means of protecting the law and order defined by the state;
- is applied to persons who do not have stable organizational ties with subjects of coercion;
- public relations regarding the protection of civil rights are the object of protection;
- the subject of administrative responsibility is the court;
- the legal basis is the law, and the factual basis is the commission of an administrative offense;
- is implemented according to the procedure established by law.

The Law of Ukraine "On Prevention and Counteraction to Domestic Violence" is a fundamental regulatory legal act that establishes the organizational and legal principles of preventing domestic violence (14). In particular, these are: an urgent restraining order against the person who conducted violence; a restraining order against the beforementioned person; taking the perpetrator into preventive registration and conducting preventive work with him; referring the perpetrator to a program for perpetrators (14).

At the same time, administrative liability and special measures to combat domestic violence are different legal instruments used to respond to domestic violence as a crime. Thus, administrative liability involves imposing administrative penalties on a person who committed domestic violence, such as a fine, community service and administrative arrest, that is, it performs a punitive function against the perpetrator. Special measures to combat domestic violence are aimed at preventing, stopping and overcoming domestic violence, as well as protecting the rights and safety of victims. This includes both legal and social, psychological and other measures. For example, prohibiting the perpetrator from contacting the victim at any time and in any way, prohibiting the perpetrator from approaching the victim at a certain distance from their place of residence (stay), study or work.

Domestic violence is also subject to criminal liability. In our opinion, domestic violence as an administrative offense differs from domestic violence as a criminal offense in the following ways: systematicity, which is a qualifying feature of criminally punishable domestic violence; the occurrence of socially dangerous consequences. The perpetrator may also be held civilly liable, which is carried out in accordance with the provisions of civil law. Civil liability for domestic violence should be understood as a legal relationship provided for by law and secured by the force of state coercion, which arises as a result of domestic violence and is expressed in the obligation of the perpetrator to bear additional property restrictions in order to most fully restore or compensate for the violated rights of the victim. That is, in fact, the essence of civil liability is to compensate for losses and moral harm caused to the victim by the commission of domestic violence against him.

Administrative actions in Ukraine for domestic violence should be consistent with international human rights obligations and standards, in particular, to ensure equality, prevent discrimination, and protect the rights of victims of domestic violence. Failure to comply with these standards may result in human rights violations and ineffective measures to prevent and combat domestic violence (1).

International instruments such as the CEDAW and Istanbul Convention require states to ensure

equality between men and women and to prevent discrimination against victims of domestic violence. Administrative activities should take these principles into account, avoiding discrimination on the grounds of sex, age, disability, religion, etc (15).

## Evolution of Domestic Violence

### Legislation in Ukraine

Domestic violence was first recognized as an administrative offense in Ukraine under the Law of Ukraine "On Amendments to the Code of Administrative Offenses Regarding the Establishment of Responsibility for Domestic Violence or Failure to Comply with a Protective Order" of May 15, 2003, as a result of which the Code of Administrative Offenses was supplemented with Article 1732 "Commitment of Domestic Violence or Failure to Comply with a Protective Order" (16). According to this Law, administrative responsibility arose in the event of intentional commission of actions of a physical, psychological or economic nature (this includes the use of physical violence without inflicting physical pain and without causing bodily harm, insults, persecution, threats, etc.). The sanction of this article provided for punishment in the form of a fine, the amount of which was from one to three non-taxable minimum incomes of citizens (i.e. from 17 to 51 UAH) or corrective labor with a deduction of twenty percent of earnings, which are applied for a period of up to one month. More severe administrative responsibility was provided for if the perpetrator, who was subject to administrative punishment for committing domestic violence, committed it again within a year, namely: a fine of three to seven non-taxable minimum incomes of citizens [34] (i.e. from 51 to 119 UAH) or corrective labor for a period of up to 15 days.

Subsequently, Article 1732 of the Code of Administrative Offences and Laws underwent repeated legislative amendments and supplements both in the content of the disposition and in the sanction. The latest amendments to this article of the Code of Administrative Offences and Laws occurred in connection with the ratification by Ukraine of the Stambul Convention. Thus, the Verkhovna Rada of Ukraine adopted Law No. 3733-IX of 22.05.2024 (entered into force on 19.12.2024), which, in particular (17):

- it was separated from the disposition of Article 173-2 of the Code of Administrative Offenses gender-based violence;
- it was determined that as a result of committing any acts of a physical, psychological or economic nature, the victim must have suffered harm to physical or mental health (previously, the disposition of the article provided that such harm could have been caused);
- the amount of the fine for committing domestic violence was increased - from twenty to forty non-taxable minimum incomes of citizens (18) (before such changes, the amount of the fine was from ten to twenty non-taxable minimum incomes of citizens);
- domestic violence against a minor and a minor was introduced as a separate element of an administrative offense;
- administrative responsibility for sexual harassment has been introduced;
- in cases necessary to identify the person or clarify the circumstances of the offense, the term of administrative detention for domestic violence or failure to comply with an urgent restraining order has been increased to 12 hours;
- mandatory recognition of a minor or underage person as a victim is provided for if domestic violence was committed in the presence of such a person and regardless of whether harm was caused to him or her;
- it has been determined that minors aged 16 to 18 will be held liable for domestic violence on general grounds;
- the term for bringing to administrative responsibility for domestic violence has been increased to 6 months from the date of commission (before such changes it was 3 months);
- the term for considering a domestic violence case in court has been increased from 1 to 3 days;
- a court ruling imposing an administrative penalty in a domestic violence case must contain a justification for the need or lack of need to refer the offender to a program for the perpetrator.

We positively assess most of the above changes, because increasing the responsibility of perpetrators for committing domestic violence,

providing additional opportunities for law enforcement officers to respond to cases of domestic violence, and improving the legal protection of victims are able to positively respond to current challenges. In addition, these changes will contribute to the effective implementation of powers by authorized entities in the field of combating domestic violence and will allow the state to ensure more effective influence on perpetrators.

The experience of such European countries as France, Germany, and Italy indicates the absence of administrative liability as such in the legislation for the commission of domestic violence. The regulatory and legal acts in these countries provide for criminal liability for the commission of certain manifestations of domestic violence, as well as the possibility of applying protective and prohibiting orders to the perpetrator. This approach is consistent with the Stambul Convention, which requires member states to criminalize certain forms of violence and implement measures to protect, support victims, and coordinate actions.

### **Judicial Practice in Domestic Violence Cases: Analysis of the Current State**

Judicial statistics show that during 2024, 152,071 cases of administrative offenses under Article 173-2 of the Code of Administrative Offenses were under consideration by the courts of Ukraine. 133,322 court cases were considered, among which administrative penalties were imposed in 100,882 cases (fines - in 96,574 cases for a total amount of UAH 25,206,148, community service - 2,809, administrative arrest - 1,487, deprivation of special rights (driving a vehicle) - 4, warnings - 12). For comparison, in 2022, 99,758 such court cases were considered, and in 2023 - 138,655 (19).

The growth of the number of domestic violence cases pending in courts may indicate not only an increase in domestic violence cases, but also trust in the judicial system. After all, if domestic violence was previously kept quiet, now the state is actively fighting to overcome this negative phenomenon, and therefore more and more victims understand that being in a violent relationship is not the norm today, especially if children are witnesses to domestic violence.

Currently, the disposition of Part 1 of Article 173-2 of the Code of Administrative Offenses "Domestic Violence" is formulated as follows: "Domestic violence, i.e. intentional commission of any acts

(actions or inactions) of a physical, psychological or economic nature (use of violence that did not cause bodily harm, threats, insults or persecution, deprivation of housing, food, clothing, other property or funds to which the victim has a legal right, etc.), as a result of which harm was caused to the physical or mental health of the victim" (20).

Signs of domestic violence as an administrative offense are: intentionality of the act; application of physical, psychological, economic violence to the victim; the consequences of the act are causing harm to physical or mental health (21).

From the analysis of court decisions, it follows that the objective side of the administrative offense of committing domestic violence most often consists of the following:

- uttering obscene language (decision of the Kovel City District Court of the Volyn region dated 03/26/2025 in case No. 159/1768/25),
- insult with obscene language, pulling on outer clothing, threatening physical violence (decision of the Lyubeshiv District Court of the Volyn region dated 04/03/2025 in case No. 162/263/25, decision of the Frunzensky District Court of Kharkiv dated 04/03/2025 in case No. 645/1616/25),
- insult with obscene language, threatening physical violence and ordering a blow to the face (decision of the Desnyansky District Court of the city of Kyiv dated 04/03/2025 in case No. 754/4069/25),
- the order to hit the face, insult with obscene language and threat with a knife (ruling of the Shevchenkivskyi District Court of Kyiv dated 03/31/2025 in case No. 761/46002/24);
- insult with obscene language, humiliation and attempt to take away the phone (ruling of the Darnytskyi District Court of Kyiv dated 03/28/2022 in case No. 753/5055/25).

### **Problems of Applying Administrative Penalties for Domestic Violence and Ways to Solve Them**

Achieving the goal of administrative responsibility in the field of protecting the rights of victims of domestic violence is directly related to specific administrative sanctions, the effectiveness of which depends on the type of administrative sanction and the sufficiency of its impact on the legal consciousness of the offender and other persons in order to prevent new or repeated administrative offenses (22). Therefore, the

question arises of determining the effectiveness of administrative sanctions for committing an administrative offense provided for in Art. 173-2. Currently, the sanction of the article provides for the imposition of a fine on the offender, the amount of which is determined in the range from 20 to 40 tax-free minimum incomes of citizens.

Administrative responsibility is not a sufficiently effective means of combating domestic violence and its recurrence and its repetition, since the penalties specified in Article 173-2 have a low preventive effect (23). The application of such a type of punishment as a fine is extremely ineffective, including considering the size of the fine, and more effective in this case could be correctional and community service, which would contribute to the re-education and correction of the offender, and the prevention of repeated domestic violence (24).

The application of administrative sanctions in the form of administrative arrest is considered not sufficiently appropriate by most researchers (25). Administrative arrest should be used for domestic violence as a last resort, since in accordance with Part 3 of Article 328 of the Code of Administrative Offences, persons subjected to administrative arrest are not paid wages at their place of permanent employment during the period of arrest (26). The use of administrative arrest allows the victim of domestic violence to take a break from the aggression of the offender for a while, while he is serving administrative arrest. But when the offender returns home, he becomes even more aggressive, blaming his victim for having to serve administrative arrest. The next time violence occurs in the family, the victim is unlikely to report the offense to law enforcement agencies, because in this case she may suffer again (27).

It is administrative arrest as the most severe type of administrative penalty that should be applied to the guilty person, since it is associated with temporary imprisonment for up to fifteen days and the use of guilty persons in physical labor, which should implement individual and general prevention (28).

### **Specifics of Proof in Domestic Violence Cases**

The right of the victim to protection from domestic violence must be balanced with the right of the person suspected of domestic violence to protection from false accusations (29).

Unfortunately, applying to law enforcement agencies and the court is used not only as a protection mechanism when physical and/or psychological violence is actually used, but also as a means of manipulation and further use of the decision in a domestic violence case during the consideration of family disputes regarding the division of property, determining the place of residence of children, eliminating obstacles to communication with children and determining the methods of participation of one of the parents in raising children, regarding the recognition of persons as having lost the right to use housing or accelerating the consideration of a case on divorce in court. Thus, from 19.12.2024, a norm came into force in the Family Code of Ukraine (30), which provides that the court shall not take measures to reconcile spouses if one of the spouses committed domestic violence, regardless of the status of the consideration of the initiated criminal proceedings, civil case or case on an administrative offense regarding domestic violence (31). That is why police agencies that respond to domestic violence calls and subsequently draw up an administrative offense report must be properly trained to recognize cases of real, rather than fabricated, domestic violence. For this, knowledge of psychology and conflict studies is necessary.

Thus, a report was drawn up regarding PERSON\_1 for committing domestic violence against his wife, which stated that PERSON\_1 intentionally threatened physical violence, insulted her with obscene language, slapped and kicked her wife PERSON\_2. At the court hearing, PERSON\_1 explained that he and his wife had another argument due to a lack of mutual understanding, during which his wife wanted him to leave, so she called the police, and noted that the conflict between them had now been resolved, he and his wife had filed for divorce, and were living separately. The victim PERSON\_2 explained that she and her husband had another argument due to a lack of mutual understanding in family relations, because she wanted him to leave, so she called the police, and now she and her husband had resolved all conflicting issues, were living separately, and had filed for divorce. Having heard the explanations of PERSON\_1 and the victim PERSON\_2, having examined the data of the protocol on the administrative offense and the attached materials, the court decided that

PERSON\_1 cannot be held administratively liable, since he did not commit domestic violence (32).

Domestic violence differs significantly from ordinary conflict relationships, as it has certain features and is characterized by the fact that the person who uses domestic violence, having a significant advantage in his capabilities, acts deliberately with the intention of achieving the desired result, which is to cause harm to the victim by violating his rights and freedoms. A conflict situation and obscene expressions constitute domestic violence and constitute an administrative offense in the event that such actions are aimed at restricting the expression of a person's will, or if as a result of such actions the victim felt fear for his or her own or someone else's safety, emotional instability, helplessness or suffered psychological harm. Unlike conflicts and disputes inherent in any family and safe for the further development of relationships, domestic violence is characterized by the aggressor's deliberate actions aimed at causing harm and achieving a goal, violation of rights and freedoms, as well as an imbalance of power (physical, psychological, related to a higher position, etc.) in his favor (33).

In this aspect, the resolutions of the Dniprovskyi District Court of Kyiv dated 04/11/2023 in case No. 755/3794/23, dated 01/24/2023 in case No. 755/13124/22 are interesting, in which the court indicated that "the term "domestic violence" denotes one of the types of gender-based violence, and not a separate type of violence. Although paragraph (b) of Article 3 of the Istanbul Convention is formulated in gender-neutral terms when defining the types of "domestic violence" and the range of persons to whom it may apply, this does not change the characteristics of domestic violence as a type of violence based on certain discriminatory, including gender, grounds. The Istanbul Convention defines domestic violence as a certain pattern of conduct by which one person attempts to establish or maintain control over another person belonging to a certain vulnerable group and in a vulnerable situation, but this in no way indicates that international treaties intended to consider as "domestic violence" any violence that occurs between family members but is caused by other reasons."

That is why the problem of proof in cases of domestic violence, especially the first cases of such acts, is one of the most relevant, since in most

situations, only the perpetrator and the victim are present during the commission of domestic violence, which leads to the limitation of proof to the explanations of the said persons (34). The victim is usually unaware of the moment of domestic violence being applied to them in order to "prepare" for it and, accordingly, make an audio or video recording (35). At the same time, in a court hearing, the perpetrator is able to deny the fact of domestic violence, just as the victim is able to exaggerate the perpetrator's actions or even slander him.

When considering domestic violence cases, the court often receives three main pieces of evidence of guilt: the administrative offense report, the police report, and the victim's testimony. In contrast, the accused person provides his or her own explanations to prove his or her innocence, which are also recognized as evidence under the Code of Administrative Offenses of Ukraine. Such a situation can be described as "testimony on testimony." However, the protocol on an administrative offense and the report of a police officer who is not a direct eyewitness to the events, by their legal nature are not independent indisputable evidence, and the circumstances set forth in them must be verified with the help of other evidence that would confirm the guilt of the person brought to administrative responsibility and not raise doubts in the court.

At the same time, in the resolution of the Chernivtsi Court of Appeal dated 09/20/2023 in case No. 725/4753/23, the court indicated that the appeal court rejects the defense's reference to the lack of such evidence in the case as witness statements, videos from police body cameras, etc., since the specificity of domestic violence is precisely that it is committed in a limited circle of people, in this episode one-on-one between the victim and the perpetrator. The court of appeal has no reason not to trust the victim in this case.

The need for proper consideration of an administrative case on domestic violence is also emphasized by the fact that previous decisions on bringing a person to administrative responsibility under Article 173-2 of the Code of Administrative Offenses are used during the consideration of a criminal case on domestic violence to confirm systematicity. That is why the police and the court are entrusted with the functions of recognizing domestic violence and protecting the victim, as



well as preventing the person from being brought to responsibility in the event of far-fetched and unfounded accusations of the other party.

## Discussion

In our opinion, administrative responsibility for domestic violence is an independent type of legal responsibility of individuals, established by the Code of Ukraine on Administrative Offenses, for committing intentional acts of a physical, psychological or economic nature (except for cases provided for by the Criminal Code of Ukraine), directed at another person who is in a family or close relationship with the perpetrator, or at a former family member, if these actions led to physical or psychological harm to the victim.

We are convinced of the need for a legislative increase in the amount of the fine imposed on the offender, since a fine in the amount of 20 to 40 non-taxable minimum incomes of citizens, which actually amounts to from 340.00 to 680.00 UAH, is unlikely to influence the correction of the offender or prevent a new or repeated commission of this offense.

In our opinion, the fine should be at least one thousand non-taxable minimum incomes of citizens (34), i.e. from UAH 17,000.00.

At the same time, the application of a fine in such an increased amount will be appropriate in the case when the offender is not a man or a person with whom the victim lives in the same family, but is not married, since otherwise it will affect the joint family budget and, accordingly, the property rights of the victim. In addition, paying the fine at the expense of the family budget may lead to the fact that the female victim will not contact state authorities in the event of repeated violence against her or her children, fearing to experience negative property consequences again.

We agree with the position of scientists that community service is currently recognized as the type of administrative penalty that is most appropriate to apply for the commission of an offense provided for in Art. 173-2 of the Code of Administrative Offenses. This is explained by the fact that community service is not a penalty that restricts the property rights of a person, and this, in turn, affects the motivational moment of the victim of domestic violence to contact a law enforcement agency (36). In addition, the application of this type of work will have a

significant educational effect on the offender, because in cases of domestic violence, the fundamental moment is the re-education of the offender and the prevention of his recurrence of this offense. That is why courts should in most cases reorient themselves to imposing such a type of administrative penalty on the offender as community service.

Analysis of judicial practice in domestic violence cases forces us to state the existence of a problem of proof in such cases. In many cases, the evidentiary base consists of a protocol on an administrative offense, explanations of the victim and explanations of the perpetrator. In our opinion, in cases of domestic violence it is necessary to search for new means of proof, among which may be the conclusion of a forensic psychological examination using a polygraph based on the results of an interview with both the perpetrator and the victim.

## Conclusion

The fight against domestic violence is an international problem that each country solves by building its own state policy to prevent and combat domestic violence, including determining the types of legal responsibility for this offense. In Ukraine, the arsenal of ways to combat this phenomenon, along with criminal and civil law, also includes administrative responsibility. An analysis of the national legislative field allows us to assert that the main source of law, where administrative responsibility is outlined, is the Code of Administrative Offenses. In particular, the Code of Administrative Offenses, as a component of the mechanism for combating domestic violence, reflects the composition of an administrative offense, clearly outlines the ways to establish administrative responsibility (types of fines, terms of consideration of the case and terms of bringing to administrative responsibility).

Despite a sufficiently well-thought-out legal system for combating domestic violence and the created regulatory framework, the fallacy of retrospective determinism in our country lies in the hope that the perception of domestic violence by citizens will be negative. However, the mentality, historical prerequisites, the level of legal culture of the population, the introduction of martial law in Ukraine do not contribute to the rapid, radically opposite recognition of domestic

violence as a negative phenomenon for the development of society. Therefore, the state, by establishing administrative responsibility for domestic violence, prevents and counteracts the development of this phenomenon in our country. The issue of legal responsibility for domestic violence is a relevant one, because it has not only a theoretical but also a practical basis. Its solution depends, first of all, on the correct analysis of each of the elements of the offense; secondly, on the determination of the social danger of the consequences of the offense, as well as the legal norm according to which the person will be held liable; thirdly, on the improvement of the legislation regulating responsibility for domestic violence through the consistency of its provisions, which are enshrined in various regulatory legal acts.

Thus, legal responsibility for domestic violence is an institution that is designed to protect victims from the unlawful actions of perpetrators, because it occupies a fundamental place in the system of types of social responsibility and is aimed at implementing law and order in society and applying negative coercive measures to perpetrators.

## Abbreviation

None.

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## Author Contributions

Viktoriia Medvedska: Conceptualization, Project management, Drafting - original draft, Writing - proofreading and editing, Roman Oleksenko: Conceptualization, Formal analysis, Research, Methodology, Drafting - original draft, Writing - proofreading and editing, Yevhen Sobol: Data curation, Supervision, Display, Oleksandr Krasnohor: Project management, Resources, Nataliia Dobrianska: Data curation, Software, Olena Sokurenko: Validation, Display, Marina Azhazha: Software.

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