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ECONOMIC VIOLENCE AS A TYPE OF DOMESTIC VIOLENCE: STATUTORY REGULATION AND THE FIRST EXPERIENCE OF APPLICATION OF THE CRIMINAL LEGISLATION OF UKRAINE

Abstract. The criminal liability for economic violence in Ukraine as one of the types of domestic violence was analyzed in the article. Interpretations of such types of economic violence as intentional deprivation of housing, food, clothes, other property, money and documents or opportunity to use them, leaving without care or guardianship, preventing in receipt of necessary services in treatment or rehabilitation, ban to work, coercion to work, ban to study and also other offenses of economic nature.

It was established that the intentional deprivation of housing, food, clothes, other property, money or documents should be understood as conditions under which the victim cannot use this property in full because it has been spent on the guilty person's own needs, transferred to third parties, destroyed or damaged, etc. It was noted that the relevant property may belong to the offender or the victim. In turn, deprivation of the opportunity to use this property means that the victim is either limited in time to use these items, that is cannot use them constantly, but only for a certain time or with a certain frequency and/or cannot use this property to the extent which deems it necessary. Separation of these types of economic violence from crimes such as abuse of guardianship rights, evasion of alimony payment for child support, evasion of money payment for keeping of disabled parents, and malicious failure to care for a child or a person in custody or care was done.

It was stated that committing such a type of economic violence as a ban on work or unlawful force to work, the offender against the will of the victim at his own discretion determines whether the victim has the right to realize his right to work or vice versa to force the victim against his will to work or overwork or perform the work chosen by the offender himself, not the victim. In this case, the aggressor may not work himself at all. This type of economic violence was separated from such crimes provided by other articles of the Criminal Code of Ukraine as the exploitation of children and the use of a minor child for begging.

The attention was focused on the fact that the list of types of economic violence for which criminal liability may occur has an open character. This approach of the legislator makes the norm more flexible in application but significantly complicates its interpretation.

Keywords: domestic violence, economic violence, financial violence, economic offenses, physical violence, psychological violence, criminal liability

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Introduction. One of the types of domestic violence is economic violence according to the provisions of the Council of Europe Convention on the prevention of violence against women and domestic violence and the combating of such events (hereinafter - the Istanbul Convention), for committing of which the criminal liability has recently been introduced in Ukraine in Art. 126-1 of the Criminal Code of Ukraine (hereinafter - CC of Ukraine)¹ [Council of Europe Convention]. The implementation of the provisions of international legislation in the field of combating domestic violence into the criminal legislation of Ukraine has contributed to Ukraine's approximation to international standards in this area.

Literature review and the problem statement. Attention on the study of international, foreign and Ukrainian legislation on criminal liability for domestic violence in general and economic violence in particular was dedicated in the works of P.S. Bilenko [Bilenko 2019], O.O. Dudorov [Dudorov, Havroniuk 2019], Z.A. Zahynei-Zabolotenko [Zahynei-Zabolotenko 2019], O.O. Knyzhenko [Knyzhenko 2019], O.V. Kharytonova [Kharytonova 2018], and a number of other scientists. The work of these and other authors proves that economic shocks can have significant consequences for the well-being of the household, even ending in violence from close partners [Cook, Taylor 2019; Harney 2011]. And preventing domestic violence can significantly reduce the cost of overcoming their effects. Thus, in the United States, the estimated cost for coping with the consequences of violence caused by the partner was \$ 103,767 per woman victims and \$ 23,414 per male victims. That is, the economic burden of the population was almost 3.6 trillion dollars (2014 US dollars) during the lives of victims. This estimate included, in particular, 1.3 trillion dollars (37% of all costs) - loss of labour productivity among victims and perpetrators, 73 billion dollars (2%) in criminal law activities and 62 billion dollars (2%) of other costs, including loss or damage to the victim's property [Peterson, Kearns, McIntosh, Estefan, Nicolaidis, MCCollister, Gordon, Florence 2018]. Studies in some countries, such as Northern Ireland, show that economic violence is even more common than physical or sexual violence [Doyle 2020]. Strong links between shortages of food and housing and the partner violence were found [Breiding, Basile, Klevens, Smith 2017].

The rapid transition in modern conditions to remote forms of work, study, trade [Kwilinski, Volynets, Berdnik, Holovko, Berzin 2019], as well as the development of technology and changes in people's daily life within, for example, the concept of the fourth industrial revolution (Industry 4.0.) [Dzwigol 2020; Dzwigol, Dzwigol-Barosz, Miskiewicz, Kwilinski 2020; Miśkiewicz 2019; Miśkiewicz, Wolniak 2020] led to the transfer of a significant number of economic relations to the digital environment [Kwilinski, Vyshnevskiy, Dzwigol 2020; Melnychenko, Hartinger 2017; Melnychenko 2020] and this, accordingly, affects not only the change in relations between economic

¹ This article provides for the criminal liability for «domestic violence, that is the intentional systematic acts of physical, psychological or economic violence against a spouse or former spouse or another person with whom the perpetrator is (was) in a family or close relationship, leading to physical or psychological suffering, health disorders, disability, emotional dependence or deterioration of the quality of life of the victim».

entities, production processes, supply chains, but also each person, as their habits, environment, surrounding, etc. change.

Thus, recent studies also concern the impact of COVID-19 on domestic violence and prove that the consequences of social distancing are, among other things, economic stress, which exacerbates domestic violence [Agüero 2021; Bright, Burton, Kosky 2020; Leslie, Wilson 2020].

At the same time, the existence of quite different points of view on the interpretation of the characteristics of economic violence, as well as the lack of established practice of criminal prosecution for committing this crime necessitates further research in this area.

The purpose of the article is to consider different approaches to the interpretation of economic violence, identify problematic aspects of law enforcement practice in this sphere and develop a scientific position to solve this issue.

Research results. First of all, it should be noted that the Istanbul Convention, in contrast to the terms of «physical violence», «psychological violence», «sexual violence» does not disclose the meaning of the concepts of «economic violence», but only states that it is a component of «domestic violence» (p. «b» of Art. 3). This necessitates the signatory countries to define this concept themselves and to establish the limits of illegal behaviour in this sphere.

Scientific literature of foreign countries describes economic violence/economic abuse as a form of violence when one of the close partners controls the other partner's access to economic resources, undermines his/her ability to access economic resources independently and creates financial dependence on the male/female partner [Anderberg, Rainer 2013; Bulte, Lensink 2020; Henke, Hsu 2020; Huang, Postmus, Vikse, Wang 2013; Stylianou 2018]. Financial abuse is connected with financial impropriety, including the illegal or unauthorized use of property, money, pensions or other valuables (including a change in a person's will to determine an heir). Financial abuse is a part of elder abuse [Chez 1999; Collins 2016] and domestic violence [Mshweshwe 2020]. Economic violence is a broader concept than financial violence, it also covers control over current or future income and opportunities, in particular through restrictions on access to work and/or education [Zharova, 2018]. Occasionally, we would like to draw your attention to the fact that Section XXVI «Crimes against the family and guardianship» of the Penal Code of the Republic of Poland provides for criminal liability only for certain expressions of economic violence. Thus, Article 207 of this Code speaks about physical or mental abuse of an intimate partner.

In turn, Art. 209 of this Section provides for criminal liability for malicious evasion of the obligation imposed on him by law or court decision on care by failure to provide funds for keeping of a close or other person, and Art. 210 - for leaving a person of youth age above 15 or a person who, depending on his mental or physical condition, is helpless, if the guilty person was obliged to take care of these victims.

In the legislation of Ukraine, the definition of the concept of «economic violence» is not enshrined in Art. 126-1 of the CC of Ukraine, but in p. 4 of Art. 1 of the Law of Ukraine «On prevention and counteraction to domestic violence» of December 7, 2017 (hereinafter - the Law), according to which economic violence is a the form of domestic violence, including intentional deprivation of housing, food, clothes, other property, money and documents or opportunity to use them, leaving without supervision or

guardianship, preventing in receipt of necessary services in treatment or rehabilitation, ban to work, coercion to work, ban to study and also other offenses of economic nature.

Consolidation of the concept of «economic violence» at the legislative level necessitates the interpretation of its features in order to ensure the unity of law enforcement practice and understanding that Ukraine in accordance with international law fully ensures the criminal prosecution of this socially dangerous act.

The first form of economic violence is the intentional deprivation of housing, food, clothes, other property, money or documents, which means that the offender creates the conditions under which the victim cannot use this property in full because it has been spent on the guilty person's own needs, transferred to third parties, destroyed or damaged, etc. Herewith, the relevant property may belong to the offender² (for example, it may be his salary, real estate, food and clothing purchased by him) or the victim (personal belongings, earned money, other property).

In the case of deprivation of property belonging to the victim, the question arises about the qualification by other components of crime. As noted by M.I. Havroniuk, the subject of influence in economic violence is the property and property rights of the victim. In his view, if such influence is combined, for example, with the direct seizure of his property or with the demand for the transfer of property, property rights or acts of a property nature in favour of the aggressor, or with the deliberate destruction of property, then these actions under necessary grounds should additionally qualify under Art. 186, 189 or 194 or under another relevant article of the CC of Ukraine [Dudorov, Khavroniuk, 2019]. Here it is necessary to make one specification. Certain expressions of economic violence require additional qualification only if the sanction of the relevant article is more severe than the sanction of Art. 126-1 of the CC of Ukraine. Otherwise, the principle of non bis in idem will be violated.

Another form of economic violence is the deprivation of the opportunity to use housing, food, clothes, other property, money or documents, which means that the victim is either limited in time to use these items, that is cannot use them constantly, but only for a certain time or with at certain intervals (for example, cannot wear certain clothes at dinner, is not allowed to eat at certain times, is not allowed to take documents when leaving his home on his own) and/or cannot use this property to the extent which he deems necessary (for example, cannot eat food in sufficient quantities, cannot spend money more than the established limit or to purchase certain things, cannot carry documents when he is outside his home).

Characterizing the above types of economic violence, Art. 167 «Abuse of the rights of guardian» of the CC of Ukraine should be mentioned about. The objective aspect of the crime under this article is the use of guardianship or custody to the detriment of the ward. This form of the objective aspect is based on the commission of actions or omissions, as a result of which the ward may be harmed. The legislator in the text of Art. 167 of the CC of Ukraine mentions only two ways of committing a crime: unlawful occupation of residence and use of property. However, this list is not exhaustive, so the ways of abuse of guardianship

² The fact that the property belongs to the subject of domestic violence based on the provisions of current legislation of Ukraine does not mean that he can spend it solely at his discretion and/or for his own needs. Thus, in accordance with Art. 59 of the Family Code of Ukraine, the spouse - owner of the property defines the way in which his/her property should be possessed and disposed of, subject to the interests of the family, and primarily the interests of the children (Part 1 of this Article). When administering his/her property, the wife, the husband should take into account the interests of the child, other family members who, in accordance with the law, has the right to dispose of such property. (Part 2 of this Article).

and care may be different. Misappropriation, embezzlement of property of the ward; concluding agreements on behalf of the ward on terms unfavourable for the latter, etc. are among them. The obligatory characteristics of the objective aspect of the crime under Art. 167 of the CC of Ukraine is commission of the abovementioned actions to the detriment of the ward. Such harm, as a rule, is of a property nature (for example, the use of social benefits in his favour, the use of property of the ward to obtain his own income, etc.), which is in part based on lucrative purpose of the committing of the crime [Dudorov, Pysmenskyi 2012]. Based on the characteristics of the objective aspect of this component of crime, it is difficult not to notice that it provides for criminal liability for certain expressions of economic violence mentioned above. Thus, deprivation of the ward of housing, food, clothes, other property, money or documents or the opportunity to use them, committed by a guardian or trustee for lucrative purpose, taking into account the sanction of Art. 167 of the CC of Ukraine, except for Art. 126-1 of the CC of Ukraine requires additional qualification under this article.

Leaving without care or guardianship means the periodic or permanent non-fulfillment by a guilty person of the obligations provided by the current legislation to provide care and/or guardianship for family members or other victims who need it. By construction, this type of economic violence is expressed in the form of omission.

The obligation to perform care for and/or guardianship for a spouse or former spouse or another person with whom the perpetrator is (was) in a family or close relations is provided by current legislation. Thus, in accordance with p. 2 of Art. 76 of the Family Code of Ukraine (hereinafter - FC), a person has the right to maintenance after marriage dissolution if he/she became unable to work before marriage dissolution or within one year after the date the marriage has been dissolved and if he/she needs material support and if the former husband, the former wife is able to provide such material support. A person is entitled to maintenance if he/she became unable to work after one year from the date of marriage dissolution has elapsed as long as his/her disability resulted from unlawful behaviour the former husband, the former wife manifested in his/her respect in marriage. The maintenance is provided to one of spouses by the other spouse in kind or cash form upon their consent (p. 1 of Art. 77 of the FC). Upon court's decision, the maintenance is awarded to one of spouses, as a rule, in cash form (p. 2 of Art. 77 of the FC).

The obligation to act cannot lead to liability for omission if the person has not been able to act in a certain way. The ability to act is determined by a subjective criterion; that is the ability of a person who is in certain circumstances is taken into account. If the necessary actions have not been performed by a person for reasons beyond his control, criminal proceedings cannot be instituted against the person for omission [Kovalev, Kondrashova, Neznamova, Kozachenko 1999]. Thus, in accordance with p. 4 of Art. 76 of the FC, whenever one of spouses was unable to obtain an education, be employed or hold an appropriate position because of bringing up a child, keeping household, caring about family members, being ill or owing to any other circumstances whatsoever, he/she is entitled to a maintenance in connection with marriage dissolution even if he/she is employable, on condition that he/she needs material support and that the former husband, the former wife is able to provide such material support. Therefore, if the former spouse is not able to provide material support, the liability for leaving without care and/or guardianship as a form of economic violence is excluded.

Leaving without care and/or guardianship, as a form of the objective aspect of domestic violence, should represent several acts of passive behaviour, that is to create a system of criminal behaviour. Thus, for example, it is noted in the legal literature that when one of the child's parents after divorce, living separately, is not deliberately employed officially with the aim to pay the minimum amount of alimony and for a long time avoids additional costs for the child, such actions can also be regarded as economic violence against a child and former spouse [Dudorov, Havroniuk, 2019].

But in some cases, criminal omission can be combined with active actions by which the subject of the crime will evade the duties assigned to him. In such cases, active actions will be a way of this type of economic violence. However, the objective aspect of this component of crime will be criminal omission. Thus, for example, evasion of alimony payment may be combined with the systematic concealment of all or part of the income by the perpetrator.

Disclosing the content of this form of economic violence, one cannot ignore other components of crime provided for in the CC of Ukraine, which already provide for criminal liability for certain expressions of leaving without care or guardianship. These are Art. 164 «Failure to pay alimony for support of children», 165 «Failure to pay contributions for support of parents unable to work» and 166 «Persistent failure to perform duties related to the care of a child or a person under guardianship or in the custody» of the CC of Ukraine.

We support the position of O.O. Knyzhenko who states that when a person who is obliged to pay alimony does not pay it systematically for a long time, then his actions are covered by two norms. Firstly, Art. 126-1 of the CC of Ukraine, as there is systematic economic violence, which leads to a deterioration in the quality of life of the victim. Secondly, in addition to the above, it is also about Art. 164 of the CC of Ukraine (or Art. 165 of the CC of Ukraine). In this example, systematic economic violence is nothing more than malicious evasion of alimony paying. There is already a special norm in the legislation of Ukraine, which establishes criminal liability for economic violence against such close persons as children and parents. There is no criminal liability in Ukraine for non-payment of alimony for a spouse (former spouse). In the case of qualification of malicious evasion of alimony paying for the maintenance of children (parents) for a cumulation of crimes, that is under Art. 126-1 and under Art. 164 or Art. 165, accordingly, of the CC of Ukraine, there will be a double incrimination, which violates the constitutional principle enshrined in Art. 61 of the Constitution of Ukraine. Evasion of alimony paying as an element of the component of crime is possible only for relatives. It is impossible to commit this crime against a stranger. Since the law does not recognize any non-payment of alimony as a crime, but only malicious (malice occurs in the case of systematic actions), then such acts are nothing but economic violence, which consists in the systematic non-payment of alimony. Given the fact that Law includes to economic violence other actions (for example, deprivation of housing, leaving without care or guardianship, ban to work, etc.) in addition to deprivation of money, then the norm enshrined in Art. 164 (Art. 165) of the CC of Ukraine is special in relation to that described in Art. 126-1 of the CC of Ukraine. That is, in cases when economic violence is expressed in alimony non-payment for child (parents) support, such actions are qualified by a special norm – Art. 164 or Art. 165 of the CC of Ukraine. Art. 126-1 of the CC of Ukraine is for the cases of non-payment of alimony in respect of the former spouse [Knyzhenko, 2019].

The question arises whether such a differentiation of criminal liability for homogeneous actions is appropriate? In our opinion, it is not appropriate. In this regard, we believe that the liability for malicious evasion of payment for the maintenance of the spouse (former

spouse) should also be provided in Art. 165 of the CC of Ukraine. In this regard, p.1 of this article should be supplemented with the phrase «or spouse (former spouse)» after the words «disabled parents».

Malicious non-fulfillment of duties for the care of a child or a person in respect of whom guardianship or custody has been established which has caused serious consequences also do not require additional qualifications under Art. 126-1 of the CC of Ukraine, as such actions are fully covered by Art. 166 of the CC of Ukraine, which is a special norm on domestic violence³. At the same time, these actions committed against other victims under Art. 126-1 of the CC of Ukraine, or if they did not cause serious consequences, under appropriate grounds, should be regarded as domestic violence.

Preventing in receipt of necessary services in treatment or rehabilitation means that the offender creates obstacles for the victim to receive the necessary medical services and/or rehabilitation after illness and/or medical intervention (does not allow to visit health care facilities, does not allow doctors to visit the victim, does not give permission for the operation, forces to do household chores instead of rest after a long-term treatment, refuses to pay for treatment in full or in part, etc.).

Ban to work or coercion to work primarily violates the requirements of Art. 43 of the Constitution of Ukraine, according to which everyone shall have the right to work, including a possibility to earn a living by labour that he freely chooses or to which he freely agrees (p. 1), the use of forced labour shall be prohibited (p. 2), everyone shall have the right to proper, safe, and healthy labour conditions and to remuneration no less than the minimum wage determined by law (p. 3), the employment of women and minors for work hazardous to their health shall be prohibited (p. 4). Committing this type of economic violence, the perpetrator against the will of the victim determines at his own discretion whether the victim has the right to realize his right to work or, conversely, to force the victim against his will to be engaged in work or overwork or work chosen by the perpetrator himself not by the victim. In this case, the aggressor may not work at all. The victim may be officially employed or not in an official employment relationship, receive a proper salary, part of it, or not receive a salary at all.

Considering this type of economic violence, it is necessary to mention the components of crimes provided for in Articles 150 «Exploitation of children» and 150-1 «The use of a minor for begging» of the CC of Ukraine. Taking into account the sanction of Art. 150 of the CC of Ukraine, the actions provided for in p. 1 of this article committed by a subject of

³ In the juridical literature it is noted that this concept, in the context of Art. 166 of the CC of Ukraine, is evaluative, and therefore the malice of such an action should be determined in each individual case. The malicious nature of non-fulfillment of the relevant duties may be evidenced, for example, by the duration, recurrence, systematic non-fulfillment, its continuation after warning of the need to fulfill the duty of child care and criminal liability for non-fulfillment of this duty by authorized bodies. However, in some cases, not only a prolonged or systematic non-fulfillment of the relevant duties, but also a one-time failure to perform them may be considered malicious. Serious consequences are also an evaluative category and can be expressed, for example, in the death or injury of a child or a person under guardianship or custody, their serious illness, the commission of a serious crime by them or their participation, the infliction of significant harm, etc. to a child or ward by actions. [Dudorov, Pysmenskyi 2012].

Studying the peculiarities of economic violence, U. Lukach notes that economic violence is a case when a woman wants to work or do something, but in fact cannot realize her desires because of the prohibition of her husband or other family members. In other words, it is a system of behaviour for keeping power and control over an intimate partner [Lukach, 2017].

domestic violence are fully covered by Art. 126-1 of the CC of Ukraine and do not require additional qualification under Art. 150 of the CC of Ukraine. Instead, the actions provided for in p. 2 and 3 of Art. 150 of the CC of Ukraine, except for Art. 126-1 of the CC of Ukraine, also require additional qualification under the relevant part of Art. 150 of the CC of Ukraine.

At the same time, while classifying the actions provided for Art.150-1 of the CC of Ukraine, the approach offered by O.O. Knyzhenko when separating the components of crime provided for Art. 126-1 of the CC of Ukraine and Art. 164, 165 of the CC of Ukraine should be used because begging means systematic wheedling of money, goods, other inventories from strangers according to p.1 of Art.150-1 of the CC of Ukraine. Judicial literature mentions that systematic character in Art. 150-1 of the CC of Ukraine is such begging of money happened tree times at time, but it is not important whether the child begged money in one or several persons [Dudorov, Pysmenskyi 2012]. The subject of the components of crime under p.1 of this article is the parents of the child or the persons substituting them. Thus, Art. 150 of the CC of Ukraine, in case of committing this crime by the parents or the persons substituting them, is a special criminal-and-legal norm concerning domestic violence.

The ban on study grossly violates human rights under p. 1 of Art. 53 of the Constitution of Ukraine according to which everyone has the right to education. In this case, full general secondary education is compulsory (p. 2 of this article), which means that obtaining this education is not a right but a duty of a person. The ban to study means that the offender does not allow the victim to realize his/her right to obtain pre-school, extracurricular, vocational and higher education, as well as creates obstacles for the victim to fulfill his/her obligation to complete general secondary education (ban on attending educational institutions, stay after school for additional classes, attend refresher courses, attend a tutor, etc.).

The list of types of economic violence is open because the definition of this concept enshrined in p. 4 of p. 1 of Art. 1 of the Law also deals with other offenses of economic nature. It is necessary to pay attention to two points to define correctly the meaning of this concept. Firstly, the definition of economic violence includes an open list of offenses of the economic nature. They have been analyzed above. Secondly, the legislator used the term «offenses of the economic nature» instead of «economic offenses». This, in turn, suggests that these concepts are not synonymous. Herewith, economic offenses are a component of offenses of the economic nature. Based on this, we can conclude that offenses of the economic nature should be understood as offenses that violate: 1) the right of ownership and/or other property rights of the victim; 2) labour rights of the victim; 3) the rights of the victim in the sphere of economic activity.

Other offenses of economic nature may include the following actions: concealment of income, disregard for the needs of the partner (for example, the wife, when shopping, must report to the husband of all expenses, so that the financial situation was under his «constant control»); a woman may hear reproaches of «being a drain on his pocket», even if she is on childcare leave and keeps a household, etc. [Kharytonova, 2018].

P.S. Bilenko identifies the following main features of economic violence: control over another person's finances; restricting the access of another person to the use of common property, manipulation of property rights as an advantage of one family member over another; threats to the victim to lose money, property or personal belongings in case of disobedience; restriction of another person's right to study or work; coercion into prostitution, begging, theft; denuding of money or documents from the victim; coercion

to transfer ownership of the victim's movable and immovable property; humiliation of the victim and psychological pressure because of the predominance of material property; manipulation of the victim's thoughts and desires by taking material resources and food from the victim [Bilenko, 2019].

Analysis of court decisions conducted by Z.A. Zahynei-Zabolotenko (the lawyer analyzed 84 sentences from the Unified State Register of Court Decisions (hereinafter – USRCD) as of October 15, 2019) shows that domestic violence was committed by using psychological or physical violence against the victim [Zahynei-Zabolotenko, 2019]. P.S. Bilenko also stated that economic violence was not used against the victims in any criminal proceedings under Art. 126-1 of the CC of Ukraine after analyzing the sentences placed in the USRCD as of October 1, 2019. The main forms of violence were psychological and physical ones [Bilenko, 2019].

Own analysis of 406 sentences passed in 2019 – the first half of 2020 and placed in the USRCD, allows us to conclude that this trend continues.

This trend seems rather surprising given that the results of the conducted sociological survey showed that almost half of women (48%) had been expelled from their homes in the last 12 months. Demands to report for every little thing spent and damage of property (32% in both cases) were next by frequency, partners refused to give money to their wives for household expenses, although they had them for their own purchases (20%). Other types of economic violence which were asked questions included embezzlement of money or property, disruption of work and career, and deprivation of the possibilities to meet basic needs.

According to the survey, economic violence in each its forms occurs more often than three times a year in most cases. The following is separately stood out: coercion to report on costs, refusal to give money and deprivation of opportunities to meet basic needs. The results of the survey show that the expressions of economic violence (if they occur) are almost always regular. In total, 68% of respondents suffered from economic violence, and 34% – with three or more forms simultaneously. That is, the respondents face economic violence much more often than physical or sexual violence, and it is close to psychological in essence [Summary report, 2015].

This state of affairs can be explained in particular by the fact that the pre-trial investigation bodies do not pay due attention to the investigation of the facts of economic violence or do not notice it.

Thus, PERSON_1 was found guilty of committing a crime by the court sentence under Art. 126-1 of the CC of Ukraine for the fact that he, being repeatedly brought to administrative liability under Art. 173-2 CUoAV, being at the place of residence committed psychological violence against his mother PERSON_2, which consisted of verbal abuse, humiliation of her dignity, the form of obscene language, intimidation and threats of physical violence against her.

Repeated intentional illegal actions by PERSON_1 in relation to his mother PERSON_2 led to physical and psychological suffering of the victim, deterioration of the quality of her life, which consisted in the form of fatigue, physical discomfort, negative feelings, loss of normal sleep and rest, including loss of positive emotions. The victim in court sitting explained to the court that the accused and his son PERSON_3 lived with her since December 2014. The accused abuses alcohol, swears at her, and tells her to die. Also, the accused broke down the door, stole the TV set that was presented to her. Besides, PERSON_1 took away the card

on which the pension of the grandson on loss of the breadwinner comes, and takes money from it for him. Currently, PERSON_1 is not drinking, but she cannot live with him. Conflicts between her and her son have been going on since 2014, all conflicts are started by the accused. In August 2019, her son beat her [Verdict of the Shevchenkivsky District Court of Chernivtsi, 2020].

Expressions of economic violence, such as damage and seizure of the victim's property, as well as seizure of money calculated to the son of the perpetrator, immediately attract attention. However, the pre-trial investigation authorities ignored these facts and did not give them a proper criminal assessment.

In another case, PERSON_1 was found guilty of systematic psychological violence, which was expressed, in particular, in the fact that PERSON_1, being at his place of residence for no reason verbally insulted and humiliated his wife PERSON_2, threatened her, told her obscenities and demanded to leave the place of her residence that is limited the right of his wife to use the summer kitchen where she lived. As a result of illegal actions by PERSON_1, the victim PERSON_2 suffered psychological suffering, which was expressed in fear for her safety, emotional depression, fatigue, loss of normal sleep and rest [Verdict of the Novyi Buh District Court of Mykolaiv region, 2020].

In this case, the court found that the perpetrator restricted his wife's right to use the summer kitchen where she lived. That is, a specific expression of economic violence was stated. Herewith, the bodies of pre-trial investigation qualified the above actions of PERSON_1 under Art. 126-1 of the CC of Ukraine, as a deliberate systematic commission of psychological violence against a person with whom the perpetrator was in a family relationship, which led to psychological suffering of the victim. Therefore, in this case as well, the pre-trial investigation bodies did not provide a proper criminal-and-legal assessment of the facts of economic violence and did not reflect it in the charging document.

In this case, the court at its discretion cannot assess the above actions as economic violence, because in accordance with p. 1 of Art. 337 of the Criminal Procedure Code of Ukraine, the court proceeding is conducted only in respect of the person whom the charge was brought, and only within the charges in accordance with the charging document, except as provided in this article. In order to make a fair court decision and protect human rights and fundamental freedoms, the court has the right to go beyond the charges specified in the charging document, only in part of changing the legal qualification of the criminal offense, if it improves the situation of the person subject to criminal proceedings (p. 3 of this article).

Conclusions. The conducted analysis of the normative regulation of criminal liability for committing of domestic violence and the practice of its use allows us to draw several conclusions. Firstly, the CC of Ukraine provided for criminal liability for certain expressions of economic violence. Secondly, the Ukrainian legislator had approached the implementation of the provisions of the Istanbul Convention quite responsibly in this part providing for criminal liability for a fairly wide range of actions that can be attributed to domestic violence. As a result of such a broad approach, in some cases there has even been competition in criminal-and-legal norms. Thirdly, most types of economic violence are new to Ukraine's criminal legislation, unlike most types of physical and psychological violence. As a result, economic violence seems to be absorbed by physical and/or psychological violence, with the result that the law enforcement officers conducting a pre-trial investigation do not seem to notice it. And there are reasons for this. Until recently, these actions were not

considered something socially dangerous. Moreover, resolving a number of these issues was considered a purely family matter. This is primarily due to the established view of the role of a man, a woman and children in the family, relationships with other relatives, existing traditions, and so on as well as the attitude to other types of domestic violence.

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