

ON THE IMPLEMENTATION AND FUNCTIONING OF THE «BARNAHUS»

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Annotation. The aim of the work is to study and analyze the Barnahus model through the prism of European experience and the legal system of Ukraine.

The methodological basis of the study is the dialectical method of scientific knowledge, since the genesis of the «Barnachus» model was revealed with its help. From the standpoint of the value approach, legal ideas, the normative legal framework and law enforcement practice were investigated. The work uses such general scientific methods as: system analysis, ascent from the general to the specific, analogy, generalization, comparison, as well as the principle of historicism, social and objective approach, which contributed to the disclosure of the features of the «Barnachus» model as a whole and its components, in particular. Special-legal methods, such as comparative-legal, formal-dogmatic, sociological-legal, cultural-legal.

Results. The article is devoted to the Barnahus model, which is currently an innovative model at the European level in the field of combating violence against children and child-friendly justice. Ukraine, striving to become a full-fledged member of the European Union, has undertaken a number of obligations, including to provide children with additional procedural guarantees during their interrogation (questioning) in criminal proceedings. The article examines and analyzes the Barnahus model through the prism of European experience and the legal system of Ukraine. The author analyzes the basic ideas of the Barnahus model; examines the peculiarities of the formation and development of the Barnahus model in the legal systems of Scandinavian countries; clarifies the European quality standards of the Barnahus model as a result of the PROMISE network; examines the organizational and legal framework for the implementation and functioning of the Barnahus model in Ukraine; analyzes the impact of national legislation on the functioning of the Barnahus model in Ukraine, revealing certain problematic aspects.

Conclusion. It is established that the Barnahus model is a multidisciplinary program for child victims and child witnesses of violence or cruelty, organized in a child-friendly environment and under one roof to ensure effective protection, quick access to justice, and the provision of necessary services. It is proved that its main task is to cooperate «under one roof» of an interagency and interdisciplinary team involved in juvenile criminal justice for effective coordinated work (collecting evidence, providing services, creating a child-friendly environment, helping to return to their usual life, etc.) and achieving maximum interaction with child witnesses or child victims of violence or cruelty.

Key words: child victims, child witnesses, Barnahus model, quality standards, legal system, European experience, Barnahus centers.

1. Introduction.

Children are the least protected members of Ukrainian society. The problem of violence and cruelty against them is becoming more and more acute in Ukraine, especially today, during the Russian full-scale invasion. The growing number of child victims and child witnesses in criminal proceedings related to violence and cruelty, as well as the changing and expanding forms of violence and cruelty in criminal acts, complicate the process of protecting the rights and legitimate interests of children, and reduce the

sense of security and justice in society. In Ukraine, the detection of each case of violence or cruelty against a child obliges the state authorities and local self-government bodies to launch a «chain» of actions. Their activities are mostly parallel processes that run in two directions and solve different problems: investigating a criminal offense and providing assistance to a child victim. These processes take place in isolation and are generally focused on protecting children from criminal attacks.

The need to unify the algorithm for working with child victims and child witnesses of criminal offenses involving violence or cruelty is becoming increasingly important. In this regard, separate centers using the European Barnahus model have begun to appear in Ukraine, which are essentially interagency and interdisciplinary specialized centers for working with such children.

2. Analysis of scientific publications.

Some fragmentary studies of various aspects of the topic under consideration (legal framework and mechanisms for interviewing a child; protection and psychological support for child victims of violence; general characteristics of the Barnahus model; national Barnahus models of individual countries, etc: Hrytsenko L., Zasluska M., Bugayets T., Parkhomenko P., Zhuravleva M., Pashko N., Samofal M., Semeniuk V., Haldorsson Olivia Lind, Johansson Susanna, Stefansen Kari, and others.

The Barnahus model (from barna hús - translated from Icelandic as «home for children») was launched in the Scandinavian countries as an innovative reform in the way cases of violence and abuse against children or children who witnessed such illegal acts are handled. After its initial introduction in Iceland (1998), it has rapidly spread to the Nordic region and is now an integral part of the services for children [1; c. 14].

The Barnahus model combines criminal and social aspects related to cases of violence, child abuse or child witnesses. Thus, it is a kind of «hybrid organization» that intertwines various social and legal institutions in a new way. It can be characterized as an interagency and multidisciplinary model based on the ideas of «child-friendly justice» and the principle of «one-stop shop» or «one-stop-shop».

The main goal of the Barnahus model is to bring together all professional bodies/individuals involved in reported cases of violence and abuse against children (or cases where children have witnessed violence or abuse) to ensure a coordinated response to these misconducts.

3. The aim of the work is to study and analyze the Barnahus model through the prism of European experience and the legal system of Ukraine.

4. Review and discussion.

The Barnahus model involves, first and foremost, professional bodies/individuals such as the police, prosecutors, healthcare authorities, social policy authorities, child protection services, and psychologists.

There are two target groups of the Barnahus model:

- Primary group: all children who are victims or witnesses of criminal offenses involving violence or cruelty;
- Secondary group: families/guardians of children who are victims or witnesses of criminal offenses related to violence or cruelty. However, provided that they are not the subjects of these violent criminal offenses, i.e., that they did not play the role of «offenders» in these offenses.

According to Article 19 of the UN Convention on the Rights of the Child, a child is «every person under the age of 18 years, unless under the law under whose jurisdiction the majority is attained earlier» [12]. Forms of violence include, but are not limited to, physical, psychological, sexual violence, domestic violence, commercial exploitation, human trafficking, and genital mutilation [12].

Despite some differences between the Scandinavian national Barnahus models, they are basically the same: the main goals and objectives, the composition of the professional bodies/individuals involved, and the implementation of the model in both the child welfare and criminal justice systems.

The PROMISE network was established in 2015 to promote and implement the Barnahus model throughout Europe and beyond. The PROMISE Network is a partnership of organizations, professionals, and experts from European pioneering countries in the field of practical implementation of the Barnahus model. This partnership is funded by the European Union and managed by the Division for Children at Risk of the Secretariat of the Council of the Baltic Sea States [6, p. 10].

The PROMISE network respects the fact that Europe has adopted the Barnahus model as a standard practice for providing children, victims or witnesses of violence, with quick access to justice and comprehensive care. Its representatives see the mission of the PROMISE network as building a European space where every child can actually realize their right to protection from violence and abuse and be heard. According to representatives of the network, it is important to disseminate international documents supporting the Barnahus model, including the Barnahus quality standards, into the legal systems of modern states (the analysis of the standards will be briefly discussed in this subsection) [10]. States, in turn, are obliged to implement effective legislative, administrative, medical, social and educational measures to prevent and combat violence/abuse against children. After all, child victims and child witnesses of violence or cruelty have the right to support and assistance through timely access to evidence-based and interdisciplinary measures in a safe environment (in Barnahus centers).

By bringing together stakeholders to share experiences and knowledge, and to jointly develop and adhere to Barnahus quality standards, the PROMISE network is accelerating progress across Europe in the provision of interdisciplinary services to children affected by violence and abuse [10].

At the same time, the main achievement of the PROMISE network is the European Quality Standards «Barnahus» as a reflection of international and European legal principles of the UN, the European Union and the Council of Europe. The Barnahus European Quality Standards are fundamental principles, specific measures and institutional mechanisms that ensure effective joint action by interdisciplinary and interagency professionals focused on the child [2]. In essence, they offer «innovative recommendations» in the field of treatment of children who have suffered or witnessed violence and abuse. They are voluminous, published in both longer and shorter versions, and contain a total of 10 standards.

It is generally accepted that the legal basis for the implementation of the Barnahus model in the state legal institutions of modern Ukraine is the Order of the Cabinet of Ministers of Ukraine No. 1027-p of December 18, 2018, which approved the National Strategy for Reforming the Justice System for Children until 2023 [9]. This event is associated with the start of a new stage in the development of modern institutions and models in Ukraine, including Barnahus.

The Barnahus model is being implemented in the national legal system of Ukraine with the assistance of the Interagency Coordination Council on Juvenile Justice and the United Nations Children's Fund (UNICEF) in Ukraine. The working group for the model implementation was established in July 2020 and includes representatives of international and non-governmental organizations, the Supreme Court, the Coordination Center for Legal Aid Provision, the Ukrainian Parliament Commissioner for Human Rights, the Presidential Commissioner for Children's Rights, the Prosecutor General's Office, the National Police of Ukraine, the Ministry of Internal Affairs of Ukraine, the Ministry of Justice of Ukraine, the Ministry of Health of Ukraine, the Ministry of Social Policy of Ukraine, etc. On August 17, 2021, a Memorandum of Understanding was signed as the basis for further cooperation between these public authorities and the United Nations Children's Fund (UNICEF) in Ukraine, which is valid for three years from the date of its signing [4].

An important role in the organizational and legal process of implementing the Barnahus model in Ukraine was played by the Decree of the President of Ukraine «On Urgent Measures to Prevent and Combat Domestic Violence, Gender-based Violence, and Protect the Rights of Victims of Such Violence» No. 398/2020 of September 21, 2020. By this decree, the Head of State obliged the government to work within six months to develop and submit to the Parliament draft laws to provide minors with additional procedural guarantees when they are interviewed. The draft laws should be based on the best

international experience, including the Barnahus model (clause 2 of the Decree) [4]. It should be noted that in pursuance of this decree, the government submitted to the parliament a draft Law of Ukraine «On Child-Friendly Justice», but it was never considered by the parliament [14].

According to M. Zasulska, today in Ukraine there is no separate comprehensive legislative act that would regulate both the creation and operation of institutions that use the Barnahus model, but there are legal documents that lay down the legal basis for the activities of each subject of the multidisciplinary team. For example, there are no legal obstacles to conducting forensic and/or medical examinations within a Barnahus center if it meets the clinical conditions and has the necessary equipment. After all, forensic examinations at the Barnahus Center will be carried out in compliance with the provisions of the Order of the Ministry of Health of Ukraine «On the Development and Improvement of the Forensic Medical Service of Ukraine» No. 6 of January 17, 1995 [14].

The Barnahus model takes into account the basic legal obligations of child victims and witnesses in criminal proceedings, proclaimed by the UN Convention on the Rights of the Child [12; 5], and reflected in the relevant legal framework of the Council of Europe and the European Union, professional recommendations and the European Barnahus Quality Standards. First of all, we are talking about:

- 1) The right to be heard. Children in criminal proceedings cannot be deprived of or restricted in the exercise of this right only because they are children or because of their age. They have the right to be heard and provide evidence in a case of violence or cruelty.
- 2) The right to information, support and assistance in accordance with the role of children as victims or witnesses in relevant criminal proceedings.
- 3) The right to an individual assessment of the special circumstances of each child victim or witness of violence in order to identify all their needs, guarantee the realization of their rights, and, if necessary, apply special measures to them [7].
- 4) The right to reduce the number of medical examinations to a minimum, that is, to carry them out only if absolutely necessary for the purposes of criminal proceedings.
- 5) The right to interview (interrogation) child witnesses or child victims in criminal proceedings under the following conditions:
 - in a room that is designed and adapted for children;
 - appropriate training by specialists or with their help;
 - if there is a need for several surveys (interrogations), it is advisable to conduct them by the same specialists;
 - limitation of the number of surveys (interrogations), i.e. to be carried out only if absolutely necessary (for the purposes of criminal proceedings);
 - without undue delay;
 - with the participation of a legal representative and a person chosen by the child.
- 6) The right to video recording (audio recording) of testimony. Conditions should be created for video recordings of interviews (interrogations) of child witnesses, child victims of violence, which have the status of proper and admissible evidence in criminal proceedings.
- 7) The right to optional presence in the courtroom. In order to exercise the child's right to be heard, it is not necessary for the child to be in the courtroom. The state must guarantee the possibility of using appropriate means of communication, so that the child victim or child witness can be heard in the courtroom, without his presence in it. If necessary, visual contact of the child with the person, committing violence should be avoided during criminal proceedings [1, p. 7].

It is very important that criminal proceedings with the participation of child victims and child witnesses of violence are based on the above-mentioned legal obligations of our state, which in fact predisposes

it to take decisive actions regarding the practical implementation of the «Barnachus» model in all administrative and territorial units of Ukraine.

Returning attention in the study to the activities of the Interdepartmental Coordinating Council on Juvenile Justice, we would like to emphasize that its implementation of the «Barnachus» model is carried out through the creation in Ukraine of centers for protection and social and psychological assistance in the process of working with children who have suffered from violence or become victims of it by witnesses («Barnachus» model) (hereinafter referred to as «Barnachus» centers) [11].

The first on-site meeting of the Interdepartmental Coordination Group on Justice was held on June 15, 2021. Its result was: approval of the Project Implementation Procedure; approval of the Standard Regulation on the Center for Protection and Social-Psychological Assistance in the process of working with children who have suffered from violence or witnessed it (Barnachus model); creation of the «Barnachus» center in the Vinnytsia region, inclusion of a social worker, coordinator, psychologists in its composition [3].

The first such centers using the Barnachus model appeared in 2021: Vinnytsia region, Mykolaiv, Ternopil. The following year, they appeared in Kyiv and Chernivtsi. In 2023, they were opened in the cities of Odesa, Zhytomyr, Kropyvnytskyi, Sumy, and Poltava. It is clear that the opening of the «Barnachus» centers was simultaneously accompanied by certain training for specialists/interdisciplinary teams. As a rule, the legal addresses of «Barnachus» centers are known only to a narrow circle of people, in order to preserve anonymity and security. «Clients» receive information about the location of Barnachus centers from social workers [14; 13, p. 128].

The United Nations Children's Fund (UNICEF) provides support in the functioning of the «Barnachus» centers in the Vinnytsia region and the cities of Mykolaiv, Ternopil, Kyiv, Chernivtsi, Poltava, and Zhytomyr, and in the cities of Kropyvnytskyi, Odesa, and Sumy - the World Childhood Foundation [3].

Barnachus centers provide comprehensive legal, social, medical, psychological and other types of services and assistance to children who are victims or witnesses of criminal offenses related to violence or cruelty. The target audience of «Barnachus» centers is minors, i.e. children under the age of 18. Their financing takes place at the expense of the state budget [3].

It is also important to state that in Ukraine, a positive judicial practice is being formed regarding the interrogation of children according to the «Barnachus» model. What follows from the search for this information in the Unified State Register of Court Decisions of Ukraine by the criteria - the words «Barnachus Model», «Barnachus» [14].

It is positive that the activities of the working group on the implementation of the «Barnachus» model in Ukraine are actively continuing. Thus, at one of the last interdepartmental meetings held in the premises of the Ministry of Justice of Ukraine (October 2023), members of the working group discussed issues related to: technical support of Barnachus centers, which would facilitate the implementation of all procedural actions in accordance with international standards; training of activity coordinators of «Barnachus» centers; involvement of psychologists in the procedural actions carried out with the participation of children in «Barnachus» centers, as well as in the further professional training of psychologists; roles of prosecutors during the survey (interrogation) of minors in «Barnachus» centers [1].

Thus, in Ukraine, there is both a political and a legislative basis for the functioning of institutions using the «Barnachus» model within territorial and administrative units to ensure legal and procedural guarantees for child victims and child witnesses of violence.

5. Conclusions.

The Barnachus model is a multidisciplinary program for child victims and child witnesses of violence or cruelty, organized in a friendly environment and under one roof to ensure effective protection, quick access to justice, and obtaining the necessary services.

It provides for the cooperation «under one roof» of an interagency and interdisciplinary team related to criminal juvenile justice for effective coordinated work (gathering evidence, providing services, creating

a child-friendly environment, helping to return to a normal life, etc.) and achieving maximum interaction with by child witnesses or child victims of violence or cruelty.

Today, in Ukraine, there is both a political and a legislative basis for the wide implementation and functioning of institutions of the «Barnachus» model:

- cooperation has been established with the Interagency Coordination Council on Juvenile Justice and the United Nations Children's Fund (UNICEF) Office in Ukraine, which contribute to the widespread implementation of the «Barnachus» model in the legal system of the state;
- a special working group was formed from representatives of international and non-governmental organizations, state authorities, and a memorandum of understanding was signed on promoting the implementation of the «Barnachus» model in Ukraine;
- legislative acts were adopted, which laid the foundation for the organizational and legal process of implementing the «Barnachus» model (first of all, the Procedure for the implementation of the pilot project on the protection and socio-psychological support in the justice process of children who suffered or witnessed violence («Barnachus» model) was approved, Model provision on the Center for protection and social-psychological assistance in the process of working with children who have suffered from violence or witnessed it (Barnachus model));
- the first «Barnachus» institutions were created within the framework of the pilot project, namely Centers for protection and socio-psychological assistance in the process of working with children who suffered from violence or witnessed it («Barnachus» model). Each center includes a social worker, a coordinator and a psychologist;
- work is underway on technical support (which would facilitate the conduct of all procedural actions in accordance with international standards) and training of activity coordinators of «Barnachus» centers, as well as involving psychologists in procedural actions with children in «Barnachus» centers, their professional training;
- a positive judicial practice is being formed on the interrogation of children according to the «Barnachus» model.

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