

# STALKING AS A CRIMINAL OFFENSE: PROBLEMS OF IMPLEMENTING AN EFFECTIVE PRE-TRIAL INVESTIGATION MECHANISM IN UKRAINE

*Rohatiuk Ihor, Peshko Yana, Shulga Kristina*

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**Annotation.** The article examines the phenomenon of stalking as a form of unlawful behavior that violates fundamental human rights, including the right to the inviolability of one's home; the right to privacy of correspondence, telephone conversations, telegraphic and other communications; and the right to non-interference in personal and family life. It analyzes international experience in the criminalization of stalking and identifies legal gaps in Ukrainian legislation. Special attention is given to the absence of a clear legal qualification of stalking as a criminal offense in the Criminal Code of Ukraine and the legal consequences of this omission. The article substantiates the need to introduce stalking as a separate criminal offense, which would allow for the implementation of effective pre-trial investigation mechanisms. The authors propose a definition of stalking and describe key investigative actions to be applied in stalking cases. The study also considers the social, psychological, and legal aspects of the phenomenon, enabling a comprehensive approach to its examination and counteraction.

**Key words:** stalking, harassment, criminal offense, pre-trial investigation, constitutional rights, domestic violence, Istanbul Convention.

## 1. Problem statement.

Stalking is a serious criminal offense in countries such as the United States of America, Canada, the United Kingdom, Germany, France, Italy, Spain, Poland, Scotland, Norway, Denmark, and Australia. This is due to the demonstrable behavioral patterns that lead to the psychological instability and suffering of the victim. Therefore, understanding this phenomenon is crucial for combating the threatening behavior of perpetrators (stalkers) and supporting victims. International experience indicates that this offense necessitates detailed legal regulation for effective counteraction and the protection of human rights and freedoms, especially those of women, who are statistically more often victims of such crimes. According to the latest data from the UK's Office for National Statistics, one in five women (20.2%) has experienced stalking at some point since the age of 16. This figure contrasts with 8.7% of men.[1]

A crucial international legal instrument that serves as a powerful tool for protecting victims of violence is the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (the Istanbul Convention). This convention specifically provides for the criminalization of "stalking."

Istanbul Convention's Definition of Stalking article 34 of the Convention, titled "Stalking," states: "Parties shall take the necessary legislative or other measures to ensure that intentional conduct consisting of repeatedly engaging in a threatening conduct directed at another person, causing him or her to fear for his or her safety, is criminalized." A Broader Perspective on Stalking while the Istanbul Convention emphasizes "repeated" threatening behavior, it's important to consider a broader understanding of stalking [2]. In our view, stalking encompasses purposeful actions that may occur for the first time, over a period, and repeatedly. These actions are united by a single goal and constitute prolonged, targeted, intrusive behavior that occurs regularly or continuously, even if

it is the initial instance of such conduct. This broader definition acknowledges that the impact on the victim can be severe from the outset, regardless of prior incidents.

For example, in Belgium, stalking (*harcelé*) is regulated by Article 442bis of the Criminal Code [3]. The law defines stalking as the act of a person who knew or should have known that his or her conduct would seriously disturb the peace of another person. Such acts are punishable by imprisonment for a term of fifteen days to two years or a fine of 50 to 300 euros. If the victim is vulnerable due to age, pregnancy, illness or disability, the minimum penalty is doubled. It is important that criminal prosecution is possible only on the basis of a complaint by the victim or, in certain cases, on the initiative of public organizations.

In Germany, stalking is defined in §238 of the Criminal Code[4]. Here, stalking is understood as intentional, repeated actions that, without the victim's consent, restrict their way of life. The law contains a detailed list of actions that are considered stalking: seeking physical intimacy, attempts at contact, misuse of personal data, threats, cyber espionage, publication of images or information that harms the reputation, etc. The basic penalty is up to three years of imprisonment or a fine, but in particularly serious cases (e.g., when the victim's life is threatened, prolonged harassment or death occurs) the penalty can be up to ten years of imprisonment.

In Canada, the legal definition of stalking (criminal harassment) is found in section 264(1) of the Criminal Code [5]. The law prohibits any act that a person does without lawful authority, knowing or recklessly knowing that it is likely to cause another person to fear for their own safety or the safety of their acquaintances. Prohibited acts include: repeated stalking, repeated communication directly or indirectly, surveillance of the victim's place of residence or work, and threats. Thus, Canadian law focuses on the impact of the conduct on the person's subjective sense of safety, rather than solely on objectively recorded actions.

Stalking (harassment) is defined in Chapter 4, Section 4b of the Swedish Criminal Code as "unlawful pursuit" (*olaga förföljelse*) [6]. According to Swedish law, a person who repeatedly commits acts against another person that infringe on their personal integrity (such as unlawful threats, sexual harassment, damage to property, violation of a restraining order, etc.) may be found guilty of unlawful pursuit. This crime is punishable by imprisonment for up to four years. A feature of the Swedish approach is the possibility of combining individual incidents into a single qualification of the crime, which increases the effectiveness of law enforcement.

In the United States of America, specifically in the State of New York, the crime of stalking (stalking in the first degree, stalking in the second degree, stalking in the third degree, stalking in the fourth degree) is divided into four degrees of severity according to the Penal Code and is regulated by articles 120.45, 120.50, 120.55 and 120.60. [7]

- *Stalking in the fourth degree* is considered the least serious and covers three main types of prohibited conduct. A person is guilty of stalking if they intentionally and without lawful purpose take action against a specific person, knowing or having reasonable grounds to believe that such conduct would: (1) cause fear of material harm to the health, safety, or property of the victim, a member of the victim's family, or a third party with whom the victim is acquainted; (2) cause psychological or emotional harm by stalking, calling, or initiating contact—after prior clear notice of the need to cease such actions; or (3) create a reasonable fear that the victim's employment, business, or career is in jeopardy.
- *Stalking in the third degree* involves more serious circumstances. It is a crime when, with the intent to harass, annoy, or intimidate a specific person, the perpetrator intentionally commits acts that are likely to cause that person a reasonable fear of physical injury, serious bodily harm, sexual assault, kidnapping, unlawful imprisonment, or death—of that person or their immediate family members.
- *Stalking in the second degree* qualifies if a person commits stalking in the third degree and has already been convicted of a specific predicate offense within the past 5 years, the victim of which was the same person or someone in their family. Stalking in the second degree also applies if the perpetrator has two prior convictions for stalking in the fourth degree.

- *The highest level — stalking in the first degree—* is established if a person commits stalking in the second or third degree and, in the process, intentionally or negligently causes physical harm to the victim, or commits a sexual crime classified as a Class A misdemeanor or a Class E or D felony. This corresponds to a Ukrainian serious or especially serious crime, since it involves intentional actions that cause significant harm to health or violate the sexual freedom and integrity of a person. According to the criminal law of Ukraine, such acts provide for significant terms of imprisonment — more than 5 or even more than 10 years. That is, harassment accompanied by the infliction of physical or sexual harm, in Ukrainian realities, is not classified as an administrative offense, but as a serious criminal offense, which entails severe punishment.

In Italy, the crime of stalking (*atti persecutori*) is provided for in Article 612-bis of the Criminal Code, which is intended to protect the physical and psychological integrity of the person [8]. Stalking is understood as a repeated behavior (threats or intrusive actions) that causes the victim a serious and persistent state of anxiety or fear, or a well-founded fear for their own safety or the safety of their loved ones, relatives or partner, or forces the victim to change their habits in their daily life. The law does not establish a specific list of actions, but the emphasis is on the effect that such behavior has on the victim. This definition allows for a wide range of forms of harassment, whether physical, psychological or digital.

As for the legislation of Ukraine, in the Criminal Code of Ukraine (hereinafter – CCU) [9] there is neither such a concept as “stalking” nor a corresponding crime. The absence of a crime and the lack of a normative consolidation of such behavior in the legislation make it impossible to qualify it as illegal. This creates a high level of threat to citizens, as they remain unprotected from intrusive actions by stalkers. The absence of a prescribed punishment for criminal stalking contributes to impunity and leads to negative, and sometimes even serious, consequences for victims.

Ukraine ratified the Istanbul Convention in 2022, after which, the Law of Ukraine “On Prevention and Combating Domestic Violence” was adopted in 2024. Paragraph 14 of Article 1 of the Law defines: “psychological violence is a form of domestic violence that includes verbal abuse, threats, including against third parties, humiliation, persecution, intimidation, other actions aimed at restricting the expression of a person's will, control in the reproductive sphere, if such actions or inaction caused the victim to fear for their safety or the safety of third parties, caused emotional insecurity, inability to protect themselves, or harmed the mental health of a person”[10]. That is, according to Ukrainian legislation, persecution is a type of psychological violence, not existing as a separate element of a crime, which, in our opinion, is not rational.

## 2. Analysis of recent research on this topic.

The following Ukrainian and foreign scientists have studied the issue of stalking in their works: Symonenko N.O., Zadnichenko O.S., Doroshchuk N.O., Kotyash I.L., Syoh K.Ya., J. Reid Meloy, David Beatty, Mary P. Brewster, Caralin Branscum, Seth Wyatt Fallik, Krystal Garcia, Breanna Eason, and Kayla Gursahaney.

## 3. The authors aim to examine.

The authors aim to explore approaches to defining stalking in foreign countries and to identify possibilities for its investigation in Ukraine, taking into account international experience. The article is designed to outline the legislative mechanisms and practices used in the world to combat stalking, as well as to show possible ways of their adaptation and application in the national system.

## 4. Presentation of the main material.

It is worth starting with the fact that the word “stalking” is borrowed from the English language, where “stalking” is translated as “persecution”. In general, the concept of “stalking” as a criminal offense was

first enshrined at the legislative level in the twentieth century in North America. So, in 1990, a law was passed in the state of California (USA) that prohibited the so-called “obsessive stalking”, in addition, it also contained its definition. According to which stalking is a deliberate, one-time, malicious harassment that causes trouble to another person. Subsequently, such a legislative initiative was taken up by other countries, such as Canada, Australia, Belgium, Germany (2007), Italy (2009), Scotland (2010), England and Wales (2012) [11]. Stalking was introduced as a crime in Scotland by the Criminal Justice and Licensing Act, and two types of stalking were introduced in England and Wales. The Protection of Freedoms Act 2012 amended the 1997 Act and created two new stalking offences:

- ✓ stalking (section 2A), which is conduct that amounts to harassment and also constitutes stalking
- ✓ stalking (section 4A), which involves fear of violence or serious anxiety or distress

The Constitution of Ukraine provides for a number of personal rights that are guaranteed and protected by the state. Among them: the right to inviolability of housing occupies an important place among civil rights and freedoms. (Article 30 of the Constitution of Ukraine), the right to secrecy of correspondence, telephone conversations and various types of correspondence (Article 31 of the Constitution of Ukraine), the right to non-interference in personal and family life (Article 32 of the Constitution of Ukraine)[12].

These constitutional guarantees protect against harassment such as stalking, as the person being harassed suffers from a violation of their rights as mentioned above.

As noted above, in leading countries of the world, stalking-harassment is recognized as a crime because it violates a person’s right to privacy, causes psychological harm, poses a threat to personal safety, and can lead to physical violence or other serious consequences.

As for Ukraine, citizens often encounter stalking, however, as noted above, there is no legal definition of this concept in our legislation. Despite this, signs of stalking are seen in certain provisions of the Criminal Code of Ukraine.

For example, the Criminal Code of Ukraine provides for punishment for violation of privacy (Article 182 of the Criminal Code of Ukraine). Linking this to harassment, the victim of stalking faces the actions defined in the disposition of this article, namely, very often their confidential information is illegally collected, stored, used, destroyed, disseminated, or illegally modified [9].

So, Sosnina O.V. argues that the criminal-legal protection of these constitutional rights is ensured by a system of norms provided for in Art. 182 (general norm) and Art. 162, 163 (special norms) of the Criminal Code of Ukraine [13, p. 82]. Based on this vision of the author, by adding stalking to the Criminal Code of Ukraine as a criminal offense, the legislator automatically attributed the procedure for its investigation to private prosecution proceedings (Art. 477 of the Criminal Procedure Code of Ukraine (hereinafter – the CPC of Ukraine) [14]), that is, a pre-trial investigation is possible only after the victim himself files a complaint.

This approach creates a number of significant problems that can only be solved by establishing a public procedure for investigating stalking:

A person who is being harassed is almost always in a state of psycho-emotional exhaustion. The harasser’s behavior can last for months or years, causing prolonged internal tension, a feeling of vulnerability, and loss of control over personal space. Such a person often does not have the resources for active legal initiative – writing statements, collecting evidence, visiting investigators.

2. In addition to pressure, it is important to understand that harassment is always associated with fear. The victim is afraid that filing a complaint will only aggravate the situation, will provoke revenge from the harasser, especially if the perpetrator is nearby – in the family, at work, among acquaintances. Because of this fear, the victim may not dare to contact law enforcement, even when suffering from real violence or threats.

3. Stalking is a crime invisible to society, as it is often not accompanied by obvious physical injuries or criminally significant events. Even the victim’s close circle may not know about systematic attacks,

intrusive calls, harassment at work, psychological manipulation. In the case of private prosecution, such a situation remains completely closed, and the crime is not officially recorded until the victim takes the first step.

4. When a case of harassment is initiated only upon the complaint of the victim, the entire responsibility for the initiation and course of the criminal process rests with her. This creates a situation of secondary victimization – the person who is already a victim is forced to personally defend his safety before the law, spending energy and money, exposing himself to emotional trauma and new risks. At the same time, the perpetrator may remain unpunished if the victim does not file a complaint.

Given the above, we would like to emphasize the importance of establishing a public prosecution procedure.

Due to the fact that it is difficult to prove the guilt of a person suspected of committing a criminal offense, the investigator, the inquirer, after filing a statement, must conduct a number of investigative actions. First, it is necessary to interrogate the victim in accordance with the requirements of Article 224 of the Criminal Procedure Code of Ukraine and establish the circumstances that are relevant to the criminal proceedings. This is necessary in order to know: when the victim first noticed that she was being pursued; who is pursuing her, whether the victim knows the pursuer; whether the pursuer made any threats, demands or unlawful actions against her (him), if so, what exactly and when.

According to Article 237 of the Criminal Procedure Code of Ukraine, the investigator and prosecutor must conduct a search of the premises in order to identify and record possible information regarding the circumstances of the commission of a criminal offense [14]. Stalking involves collecting information, in particular through illegal surveillance of the victim, penetration into his or her home or other property, in order to install technical devices with both surveillance and listening functions. Conducting this investigative action may reveal evidence that the harassment has taken place. In addition, it is possible to conduct a search of the area for extraneous traces of being on the territory belonging to the victim, for example, cigarette butts, shoe prints, tire treads, if the harassment was carried out using a car, etc.

If there are necessary and sufficient legal grounds for the stalker's involvement in the crime against the persecuted victim, a search may be conducted. According to Article 234 of the Criminal Procedure Code of Ukraine, a search is conducted in order to identify and record information about the circumstances of the commission of a criminal offense, to search for the instrument of the criminal offense, or property that was obtained as a result of its commission, as well as to establish the location of the wanted persons [14]. In the context of this offense, a search is conducted against a suspect, accused under Articles 162, 163, 182, etc., which, in our opinion, are currently methods of stalking. A search of the suspect's or accused's home is conducted in order to identify evidence that this person stalked the victim both in real life and in cyberspace. The results of the search may reveal:

- ✓ Records of observations of the victim (notepads, notes with the schedule of her (his) day).
- ✓ Photos or videos without the victim's consent (for example, taken secretly or through social networks).
- ✓ Printed personal data of the victim (address, phone numbers, details of her relatives, documents).
- ✓ Computer data (hacked accounts, hidden photos or videos of the victim, saved data of her movements).
- ✓ Surveillance programs (for example, special applications that allow the stalker to monitor the victim's phone, its movements or camera).
- ✓ SIM cards or "fake" accounts (used to anonymously send threats).

When investigating this offense, investigative actions will also take place – taking evidence of technical devices and technical means that have the functions of photo, film, video recording, or means of photo, film, video recording, which consists in obtaining by the investigator, prosecutor from a person who is the owner or possessor of the relevant devices or means necessary to clarify

the circumstances that are important for criminal proceedings, copies of photo or film recording, video recording, made in publicly accessible places, including in automatic mode, with the exception of places related to private residences of individuals. (Article 2451 of the Criminal Procedure Code of Ukraine [14]). This procedural action will allow the investigator, prosecutor to investigate public places (supermarkets, parking lots, shopping centers, cafes, restaurants, etc.) where the victim was (where the offender could observe her) and obtain supporting evidence for this.

If in the process of stalking the stalker committed a serious or especially serious crime, then it is also possible to conduct covert investigative (search) actions. According to the Instructions on the organization of covert investigative (search) actions and the use of their results in criminal proceedings dated 16.11.2012 No. 114/1042/516/1199/936/1687/5, regardless of the severity of the crime, the following ISA actions may be carried out: removing information from electronic information systems (Article 264 of the Criminal Procedure Code of Ukraine) and determining the location of radio equipment (radioelectronic means) (Article 268 of the Criminal Procedure Code of Ukraine)[15]. Since in most cases stalkers act anonymously, hide their actions and use appropriate digital technologies for this, conducting these procedural actions is also important for proving the guilt of the offender.

Considering stalking as a component of an offense, special attention should be paid to its subject, namely the person of the stalker (pursuer). Combining the offender and his actions, it is possible to provide an author's definition of the term STALKER, where each letter will convey the essence of the corresponding actions, and therefore is an acronym. That is, a word formed from the first letters of a certain phrase or sentence. Unlike standard abbreviations, the resulting word is actually a clear and independent term that is gaining widespread use. [16]

So, STALKER –

- ✓ **S** – Surveillance (constant monitoring of the victim, both physically and online)
- ✓ **T** – Threats (emotional, psychological, or even physical pressure on the individual)
- ✓ **A** – Aggression (ranging from intrusive messages to overt threats)
- ✓ **L** – Lethal Obsession (the stalker's inability to stop, relentlessly pursuing the victim despite resistance)
- ✓ **K** – Keep in check (attempts to control the victim's life, actions, connections, and movements)
- ✓ **E** – Emotional Blackmail (exploiting the victim's feelings and vulnerabilities for manipulation)
- ✓ **R** – Radicalization (a shift from calmer behavior to sudden aggression)

The stalker is a fairly generic character in a criminal offense, as his or her stalking behavior is not limited to one type of person, race, group, sex, gender, or sexual orientation, although men are more likely to stalk than women.

For example, data from the National Stalking Helpline shows that 1 in 10 men will experience stalking in their lifetime, with approximately 85% of victims not reporting the incidents.[17] Men may stalk women, but they may also stalk other men. Women may stalk men, but they may also stalk other women. A stalker may be a partner or ex-partner, a friend, a coworker, an acquaintance, or a stranger. Some stalkers hide their identity, some tell their victims who they are.

While studying the above issues, we realized that it is necessary to pay attention to the distinction between "stalking" and the category of "domestic violence". According to paragraph 3 of part 1 of article 1 of the Law of Ukraine "On Prevention and Counteraction to Domestic Violence": "Domestic violence is an act (action or inaction) of physical, sexual, psychological or economic violence committed in the family or within the place of residence or between relatives, or between former or current spouses, or between other persons who live (lived) together as one family, but are not (were not) in family relations or married to each other, regardless of whether the person who committed domestic violence lives (lived) in the same place as the victim, as well as threats to commit such acts" [10].

Why did we decide to single out stalking as a separate type of offense in our article? Because stalking is not just one way to commit an offense, but on the contrary consists of many illegal actions that are aimed at a common end result, the goal of stalking is to cause any kind of harm (physical, moral and material) to the persecuted person. Our point of view is that stalking today manifests itself through actions that formally fall under the norms of individual articles of the Criminal Code of Ukraine, in particular: Art. 162 of the Criminal Code of Ukraine – violation of the inviolability of housing; Art. 163 of the Criminal Code of Ukraine – violation of the secrecy of correspondence, telephone conversations, telegraphic or other correspondence; Art. 182 of the Criminal Code of Ukraine – violation of the inviolability of private life. However, none of these articles separately covers the essence of stalking as a long-term, systemic behavior with elements of psychological terror. That is why we propose to look at stalking as a separate crime, which will allow us to effectively respond to such situations and ensure an adequate level of protection of the rights of victims.

So, in our opinion, stalking is a complex category, as it has many forms of negative manifestation towards the victim, it can be both a prerequisite and a continuation of domestic violence and continue as a criminal offense for years. For example, at the beginning of the relationship, the partner shows light control (tracking movements, social networks, calls), which over time develops into psychological pressure, manipulation and can end in any serious criminal offense.

Stalking and domestic violence are different, although interconnected, forms of violent behavior. The difference lies in the relationship between individuals: stalking can occur between strangers, acquaintances, or former partners; while domestic violence occurs only between family members or close people. By the nature of the behavior: the first crime is characterized by obsessive stalking, control, and surveillance; and the second – physical, psychological, sexual, or economic violence. By the context of occurrence: stalking occurs outside the boundaries of cohabitation or family ties, while domestic violence occurs within the boundaries of family or intimate relationships. The goal of stalking is to gain control, attention, or return the relationship; and domestic violence – to subjugate or control a family member. But the main difference is that stalking can occur both before and after a relationship, or without them at all, while domestic violence occurs within family or close ties.

According to a study on domestic violence, in 2022, 67% of women claim that since the age of 15 they have been subjected to psychological, physical or sexual violence by their partner or another person, 64% consider violence against women to be widespread, but 41% of the women surveyed believe that if a husband is violent towards his wife, this situation should be resolved within the family. [18]

In 2023, the number of domestic abuse complaints was 291,428. 2,705 cases were opened, of which 2,243 (82.9%) reached court. Since the beginning of 2024, 1,521 criminal proceedings on domestic violence have already been opened – 36% more than in the same period last year. At the end of 2024, 2,810 criminal offenses were registered, and 2,386 went to court, of which 2,355 were with indictments; 237 with a settlement agreement; and 81 with a plea agreement.[19]

The statistics provided show that most proceedings are closed at the pre-trial investigation stage due to the fact that victims withdraw their statements.

According to The Guardian, stalking is much more common than you might think. According to recent data, about 7 million people in the UK have experienced stalking. This means that the problem of this phenomenon has turned out to be much more relevant than it seemed at first glance.[20]

An interesting analysis of the case law of the European Court of Human Rights, which emerged as a result of untimely or insufficient response of law enforcement agencies of the Council of Europe countries to manifestations of stalking, will be of interest for understanding the essence of stalking. For example, in the case “Y and Others against Bulgaria” Application no. 9077/18, a woman was stalked by her former partner until the situation escalated into a critical one, murder [21]. Bulgaria has quite developed national legislation on combating domestic violence and stalking, in particular the mechanisms enshrined in the Law on Protection from Domestic Violence, and the Bulgarian Criminal Code includes an aggravating circumstance of “stalking” if it is committed “in conditions of domestic violence”. Despite the legislative provision, in practice the protection orders enshrined in the Criminal Code are

ineffective. The mentioned case confirms that the security measures applied not only did not stop the partner's unlawful behavior, but also led to irreversible consequences. Another example is the case of "CASE OF MALAGIĆ v. CROATIA" Application no. 29417/17, in which the applicant, a Croatian citizen, was the victim of stalking by her ex-partner [22]. In this case, the stalking was accompanied by rape, manipulation of children, threats and intimidation. In this regard, she suffered psychological suffering and was forced to change her place of residence to avoid further harassment. The Croatian authorities did not take sufficiently effective measures to protect the applicant, not paying due attention to her complaints, but, fortunately, this situation did not have such serious consequences as the previous one. Case "CASE OF VIERU v. THE REPUBLIC OF MOLDOVA" Application no. 17106/18, The applicant, the brother of the victim T., alleged that the Moldovan authorities had failed to effectively protect his sister from long-term domestic violence by her ex-husband I.S., which included: repeated physical attacks; psychological violence, harassment and intimidation; and ignoring numerous breaches of protection orders. Despite T.'s numerous appeals to the police and courts, protection measures were ineffective and criminal proceedings were often discontinued due to the expiry of statutes of limitations or the reclassification of crimes into less serious administrative offences. In August 2016, T. died after falling from a fifth-floor window. The authorities qualified this as a possible accident or suicide, without taking into account the context of the long-term violence.[23]

These rare cases show how dangerous stalking is. According to the Stalking Resource Center, 13.5 million people in the United States have been victims of stalking today, 69% of whom are women and 80% are men. People aged 18-24 experience the highest levels of stalking, with 11% of victims suffering from stalking for more than 5 years [24].

Stalking remains a common phenomenon in Ukraine, faced by many women. Larisa from Zaporizhzhia and Natalia from Kyiv experienced prolonged harassment by an acquaintance and ex-husband respectively, which forced them to change their lifestyle, place of work and seek help from the police, who unfortunately did not always respond effectively.[25]

Due to the lack of official statistics, it is difficult to assess the scale of this phenomenon. However, given the increasing number of cases of domestic violence, it can be assumed that the problem of stalking is also gaining relevance. Since there is no provision in the current Criminal Code of Ukraine that provides for strict criminal liability for stalking, victims of stalkers cannot count on effective assistance from law enforcement agencies.

## 5. Conclusions.

Given the analysis conducted, a number of resolute provisions can be made on this issue. First, and most importantly, there is no element of a crime called "stalking"; as a result, it is impossible to carry out criminal procedural actions by law enforcement agencies. Second, taking into account the experience of foreign countries, it can be argued that the activities of law enforcement agencies are ineffective due to the limitation of their powers, within the framework of prohibitory orders. Third, due to the fact that the beginning of a pre-trial investigation is only the victim's statement, law enforcement agencies are powerless if she refuses it under latent pressure from a stalker. And there are many such cases. Fourth, stalking, as in the case of domestic violence, will be introduced into the legislation of Ukraine through the Istanbul Convention, and it can be concluded that the procedures for combating crimes will be similar. Therefore, it is quite likely that a program similar to the "Standard Program for Abusers" will be developed for stalkers, which is applied to persons who have committed domestic violence. The standard program for abusers provides for a set of measures based on the results of a risk assessment aimed at changing the violent behavior of the abuser, forming in him a new, non-aggressive model of behavior in private relationships, a responsible attitude to his own actions and their consequences, to the fulfillment of parental duties, and eradicating discriminatory ideas about the social roles and responsibilities of women and men [26]. In our opinion, these programs will not be rational, because the absence of stalking as a separate element of the crime and its proof allows the stalker to hide his destructive effect on the victim. Manifesting in certain types of crimes. In addition, the danger of stalking is that the abuser, not receiving a reaction to his actions from the state, becomes increasingly dangerous to society. Since over time the number of its

victims can increase many times over. Due to the fact that stalking can lead to serious consequences, as in the cases of the situations described above, we believe that it should be introduced into the legislation not in the form of a misdemeanor, but in the form of a crime.

In addition, we offer the author's definition: Stalking is active unlawful violent actions directed against the normal life and health of the victim, which take the form of: constant harassment; threats or other unwanted influence on a person that creates a danger to their life or health.

The introduction of a separate article on stalking in the Criminal Code of Ukraine will be an important step in strengthening the protection of personal freedom and security of citizens. Most importantly, it will allow not only to effectively respond to the facts of harassment, but also to perform a preventive function, restraining individuals prone to obsessive and illegal behavior. After all, the best prevention of crimes is to eliminate their causes, not to fight the consequences.

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*Doctor of Juridical Sciences, Professor, Honored Lawyer of Ukraine*  
*National Academy of the Security Service of Ukraine*  
*03066, 22 M. Maksymovycha Str., Kyiv, Ukraine*  
*ORCID: 0000-0002-3374-4597*

*Student,  
National Academy of the Security Service of Ukraine  
03066, 22 M. Maksymovycha Str., Kyiv, Ukraine  
ORCID: 0009-0001-4498-3702*

*Student,  
National Academy of the Security Service of Ukraine  
03066, 22 M. Maksymovycha Str., Kyiv, Ukraine  
ORCID: 0009-0009-0814-8943*