

ENTITIES OF ADMINISTRATIVE AND LEGAL SUPPORT OF RESPONSE TO DOMESTIC VIOLENCE: CONCEPT AND SYSTEM

Lepekho Yuliia

DOI: <https://doi.org/10.61345/1339-7915.2025.4.11>

Annotation. The issues of the concept and system of subjects of administrative and legal support for responding to domestic violence are examined in the article. Attention is drawn to the fact that the effectiveness of the activities of such subjects depends on the quality of effective response to facts of domestic violence, provision of assistance and victims' protection, proper investigation of facts of domestic violence, bringing perpetrators to legal responsibility and changing their behavior. The range of subjects of administrative and legal support, which are subjects of legal relations, is analyzed, it is noted that in each individual case it is different and depends on the sphere of public administration, the activity in which these subjects provide. This also applies to such an area as preventing and combating domestic violence. It is emphasized that the key feature of a subject is the ability to exercise the rights granted and fulfill the obligations imposed. The status of a subject of law is determined by the norms of law and administrative and legal acts that grant it the corresponding rights and obligations. The rights, obligations and authorities of subjects of administrative and legal support for responding to domestic violence are characterized. An analysis of the doctrinal concepts of the subject of administrative and legal support for responding to domestic violence is carried out. The author's definition of the subject of administrative and legal support for responding to domestic violence is given as a subject of public administration, which, using administrative and legal means, methods and procedures, determines and organizes the implementation of state policy in the field of protecting human rights from violations, covering all spheres of public life, and aimed at combating domestic violence and bringing perpetrators to legal responsibility. It is concluded that preventing and combating domestic violence at the current stage of Ukraine's development is one of the important areas of its activity, since it is considered not only as a social problem, but also as a problem of protecting human rights, which requires the development of high-quality legal means of its solution. As a result of domestic violence, the rights and freedoms of a particular person are violated, who does not always have the financial means for self-defense, and, accordingly, requires intervention from the state and society. The place of centers for providing free legal aid in the system of preventing and combating domestic violence is determined.

Key words: subjects, administrative and legal support, domestic violence, prevention, counteraction, centers for providing free legal aid.

1. Introduction.

The Law of Ukraine "On Prevention and Counteraction to Domestic Violence" declares that the state policy on preventing and combating domestic violence is aimed at ensuring a comprehensive integrated approach to overcoming domestic violence, providing comprehensive appropriate assistance to persons affected by such violence, and strengthening a non-violent model of behavior in private relationships.

Solving the problems of preventing and combating domestic violence is one of the important vectors of social development today. It is considered not only as a social problem, but, first of all, as a problem of protecting human rights and, above all, women's rights that requires the development of appropriate legal means of its solution. When committing domestic violence, the rights and freedoms of a particular person are violated, which, due to the different capabilities of the aggressor

and the victim, complicates the possibilities of self-defense and requires intervention by the state and society [1, p. 5]. Thus, a person who has suffered from domestic violence is a special category of persons who need legal services, including the provision of free secondary legal aid. Therefore, the state creates competent bodies that carry out activities in the field of preventing and combating domestic violence, which are subjects of administrative and legal support for responding to domestic violence.

2. Analysis of scientific publications.

Problems of theory and practice of the activities of subjects of administrative and legal support of response to domestic violence in Ukraine are a traditional subject of scientific research by such domestic scholars as A. Berendiieieva, M. Veselov, K. Hurkovska, K. Dovhun, O. Kovalova, R. Pylypiv, V. Sakhniuk and others. The works of D. Ivanenko, M. Lehenka, A. Manzhula and other scholars are devoted to certain aspects of administrative and legal regulation of combating domestic violence. However, a special study of the concept and system of subjects of administrative and legal support of response to domestic violence has not been conducted, which also confirms the relevance of the chosen research topic.

3. The aim of the work.

The purpose of the article is a comprehensive study of the concept and system of subjects of administrative and legal support for responding to domestic violence, as well as an analysis of their activities.

4. Review and discussion.

The fight against domestic violence goes far beyond the criminalization of the actions of individuals (offenders). This area of public and legal activity includes interference in the private lives of adults and minors (family members, relatives, other persons who are connected by a common life) in an attempt to change their most intimate behavior (and this concerns not only sexual relations, but also customs, religious beliefs, creeds, traditions, etc., which cannot be considered as a justification for any forms of domestic violence) [2, pp. 187-188]

According to the Part 2 of the Article 5 of the Law of Ukraine "On Prevention and Counteraction to Domestic Violence", the main directions of implementing state policy in the field of prevention and counteraction to domestic violence are:

- 1) prevention of domestic violence;
- 2) effective response to facts of domestic violence by introducing a mechanism of interaction between entities implementing measures in the field of prevention and counteraction to domestic violence;
- 3) provision of assistance and protection to victims, ensuring compensation for damage caused by domestic violence;
- 4) proper investigation of facts of domestic violence, bringing perpetrators to legal responsibility and changing their behavior [3].

In order to implement the above-mentioned areas, a system of entities that carry out administrative and other activities in the field of preventing and combating domestic violence has been created in Ukraine.

The effectiveness of this activity, which is carried out mainly by state bodies, depends on the quality of effective response to domestic violence, provision of assistance and victims' protection, proper investigation of domestic violence, bringing perpetrators to legal responsibility and changing their behavior. This, in turn, depends on the level of legal regulation of these issues and the available means of organizational and legal measures [4, p. 184].

The range of subjects of administrative and legal support, which are subjects of legal relations, is different in each individual case and depends on the sphere of public administration, the activity in which these subjects provide. This also applies to such an area as the prevention and counteraction to domestic violence.

Prevention of domestic violence is a system of measures implemented by executive authorities, local governments, enterprises, institutions and organizations, as well as citizens of Ukraine, foreigners and stateless persons legally residing in Ukraine, and aimed at: raising public awareness of the forms, causes and consequences of domestic violence; forming an intolerant attitude towards violent behavior in private relationships, a caring attitude towards victims, primarily towards child victims; eradicating discriminatory ideas about the social roles and responsibilities of women and men, as well as any customs and traditions based on them.

Combating domestic violence is a system of measures taken by executive authorities, local governments, enterprises, institutions and organizations, as well as citizens of Ukraine, foreigners and stateless persons who are legally residing in Ukraine, and aimed at: stopping domestic violence; providing assistance and protection to the victim, compensating for the damage caused to them; proper investigation of cases of domestic violence, bringing perpetrators to justice and changing their behavior [5, p. 16].

The key feature of a subject is the ability to exercise the rights granted and fulfill the obligations imposed. The status of a subject of law is determined by the norms of law and administrative legal acts that grant it the corresponding rights and obligations. It is worth noting that the list of subjects of administrative law may change, since it depends on a purely legal feature, which is approved by administrative legal norms. It is administrative legal personality that is the key feature of a subject of law, which functions in the system of administrative law as its element and carrier. In turn, administrative law is the sphere of potential and actual relationships and interaction of subjects of administrative law [6, p. 65].

Manzhula A.A. understands the subject of administrative law in the field of combating domestic violence as a natural or legal person who is endowed with a set of administrative rights and obligations fixed in administrative and legal norms, has legal personality in the field of protecting the rights and defending the interests of persons who suffer or may suffer from this negative social phenomenon [7, p. 171].

Hurkovska K.A. thinks that the subjects that carry out measures in the field of preventing and combating domestic violence are public administration and local government bodies endowed with powers stipulated by law, their structural divisions, associations of citizens, enterprises, institutions, organizations regardless of ownership forms, as well as individuals - citizens of Ukraine, foreigners and stateless persons, who are endowed with the appropriate legal personality and enter into administrative and legal relations in the field of preventing and combating domestic violence and are aimed at preventing it, stopping it and bringing perpetrators to legal responsibility [8, p. 216].

Lehenka M.M. includes the subjects of administrative and legal response to domestic violence as state bodies, executive authorities and local self-government bodies and their structural divisions, associations of citizens, enterprises, institutions and organizations, as well as individuals who are the citizens of Ukraine, foreigners and stateless persons, who are endowed with the appropriate legal personality and enter into administrative and legal relations in connection with the commission of such violence and are aimed at its cessation, prevention in the future and punishment of the offender [9, p. 158].

Sakhniuk V. V. proposes to divide the entities participating in the organization of the system of free legal aid into those with general competence (Cabinet of Ministers of Ukraine, Ministry of Justice of Ukraine) and those with special competence (Coordination Center for Legal Aid, entities providing free primary legal aid and entities providing free secondary legal aid) [10, p. 309].

According to the provisions of current national legislation [3], authorities, territory of activity, practice of relations between entities providing free legal aid, the administrative vertical of entities providing free legal aid is as follows:

Coordination Center for the Provision of Legal Aid (hereinafter referred to as the Coordination Center);
 entities providing free primary legal aid;
 entities providing free secondary legal aid.

Analyzing the administrative “vertical” of subjects of free legal aid provision defined in the Law of Ukraine No. 3460-VI [11], D.D. Ivanenko notes that “it is not a full-fledged self-sufficient structure”. The most important problem, in his opinion, is that employees of local centers do not have the legislative authority to provide the full range of legal protection, represent the interests of individuals and draw up documents of a procedural nature. The new edition of procedural codes in accordance with the norms of the Law of Ukraine “On Amendments to the Commercial Procedural Code of Ukraine, the Civil Procedural Code of Ukraine, the Code of Administrative Procedure of Ukraine and Other Legislative Acts” dated 03.10.2017 No. 2147-VIII [12] introduced new procedural institutions: “lawyer monopoly”, “case of minor complexity”, “minor case”, “complex case”, etc. As a result, employees of local centers that provide free secondary legal assistance in civil and administrative cases mostly have the right only to draw up individual procedural documents, and mostly do not have legislative powers to represent the interests of a person who has applied to the local center in courts. In other words, without lawyers included in the register of lawyers, local centers cannot fully represent the interests of individuals independently. To fully resolve this issue, it is necessary to amend the current legislation to expand the circle of entities that represent the interests of individuals in administrative and civil cases on a par with lawyers, namely to include employees of local centers” [13, p. 120].

In turn, there are frequent discussions among scholars and practitioners regarding the classification of free secondary legal aid centers as subjects of free secondary legal aid. Thus, A.H. Harkusha, having analyzed their authorities, comes to the conclusion that the centers are assigned more organizational functions, but in no way protection functions. Among them, one can distinguish: issuing a mandate to confirm the powers of the defense attorney, making a decision on the provision or refusal to provide free legal aid, drawing up procedural documents [14, p. 19].

Artemieva N.P. has a similar position that the legislator’s classification of free secondary legal aid centers as subjects of free legal aid is incorrect. First, free secondary legal aid centers are territorial branches of the Coordination Center for Legal Aid, established directly by the Ministry of Justice of Ukraine. The main function of the centers is to verify applications of individuals for free legal aid, make decisions on the provision of such assistance and appoint a lawyer. Second, free legal aid centers are not subjects of professional legal aid, which are exclusively lawyers. Third, direct provision of free secondary legal aid is carried out exclusively by lawyers [15, p. 6].

5. Conclusions.

Based on the above, it seems possible to formulate the concept of a subject of administrative and legal support for responding to domestic violence as a subject of public administration, which, using administrative and legal means, methods and procedures, determines and organizes the implementation of state policy in the field of protecting human rights from violations, covering all spheres of public life, and aimed at combating domestic violence and bringing perpetrators to legal responsibility.

Prevention and combating domestic violence at the current stage of Ukraine’s development is one of the important areas of its activity, since it is considered not only to be a social problem, but also a problem of human rights protection, which requires the development of high-quality legal means of its solution. As a result of domestic violence, the rights and freedoms of a particular person are violated, who does not always have the financial means for self-defense, and, accordingly, requires intervention from the state and society.

Free legal aid centers has an important place in the system of preventing and combating domestic violence, which is due to their dual functionality: firstly, they provide free legal services for victims of domestic violence, and secondly, they prevent and combat domestic violence by implementing the function of legal education.

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Yuliia Lepekho,

*Leading Specialist of the Career Development Center of the
National University "Chernihiv Polytechnic"*

E-mail: julialepekho29@gmail.com

ORCID: 0009-0001-8887-7661