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Ukraine: Domestic violence, including legislation, recourse, state protection and support services available to victims, including those who are stalked or harassed by their perpetrator; the effect of residence registration on victims that try to relocate (2013-June 2015)

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1. Overview

Sources indicate that domestic violence in Ukraine is a serious problem (UN 26 May 2014; The Advocates for Human Rights Aug. 2014; US 25 June 2015, 35) and "widespread" (RFE/RL 25 Nov. 2014; The Advocates for Human Rights Aug. 2014). According to the US Department of State's Country Reports on Human Rights Practices for 2014, spousal abuse is "common" and advocacy groups reported that the number of women who encounter physical violence or psychological abuse at home "remained high" (US 25 June 2015, 35). The UN Development Programme (UNDP) reports that, according to survey data, 68 percent of women suffered abuse in their family (UN 26 May 2014). The UNDP further notes that according to official statistics, the number of registered domestic violence cases has been increasing by 10 percent each year and reached more than 160,000 in 2013 (ibid.). According to Alona [Aliona] Zubchenko, a representative of La Strada Ukraine [1], who was quoted by Radio Free Europe/Radio Liberty

(RFE/RL) in 2014, based on official statistics by the Ministry of Internal Affairs, there have been 150,000 complaints a year regarding domestic abuse (qtd. in RFE/RL 25 Nov. 2014).

Sources report however that many women who are victims of domestic violence do not seek help (ibid.; OECD [2014]); and that "most cases [of domestic violence] go unreported" (ibid.). According to Zubchenko, while complaint statistics are based on official data, "we understand that this is official data regarding appeals to law enforcement... accordingly, civil organizations conclude that this number constitutes only 10-15 percent of the real number of instances, the real scale of the problem" (RFE/RL 25 Nov. 2014). Similarly, according to the Organisation for Economic Co-operation and Development (OECD)'s Social Institutions and Gender Index (SIGI), which measures discrimination against women in social institutions across countries, a 2009 survey indicated that only 10 percent of women who had experienced domestic violence "sought help from the authorities" (OECD [2014]). Sources also report that only 1 in 4 victims of domestic violence sought support from the legal system (The Advocates for Human Rights Aug. 2014; UN 26 May 2014), as a result of "low trust" in the law enforcement and judicial systems (ibid.).

Citing the results of a public poll commissioned by the EU and the UNDP that was conducted in 2009, the UNDP reported in 2010 that violence against women by men has always been viewed as a "private family matter" (UN 15 Jan. 2010). SIGI similarly reports that domestic violence is considered a "private, family matter" (OECD [2014]). Likewise, Kyiv Post, an English-language newspaper, reported in 2012 that the Ombudsperson stated that domestic violence is a hidden problem and that state agencies and public organizations are not always aware of the issue (30 Nov. 2012).

Statistics on the number of murders related to domestic violence could not be found among the sources consulted by the Research Directorate within the time constraints of this Response. According to a chapter in the 2013 annual report of the Ukrainian Helsinki Human Rights Union (UHHRU), which was written by representatives of La Strada, the national system for collecting information about domestic violence is "non-existent" (UHHRU 2014, Ch. 22).

Media sources report that NGOs in Ukraine, including La Strada Ukraine, are warning that the number of women experiencing domestic violence is increasing due to the crisis in Ukraine and soldiers suffering from post-traumatic stress disorder (PTSD) (Newsweek 23 Apr. 2015; RFE/RL 26 Apr. 2015). According to Zubchenko, who was quoted by American news magazine and website Newsweek in 2015, domestic violence related to the Ukrainian conflict is "very serious" and the problem is being "exacerbated by a lack of resources and experience" (ibid.). According to PassBlue, an independent digital publication that reports on the work of the UN, with a primary focus on women's rights and gender equality (PassBlue n.d.), women displaced by the conflict in the Ukraine are facing an increased threat of sexual violence and domestic violence (ibid. 10 Mar. 2015).

2. Legislation

Sources report that there is no law criminalizing domestic violence in Ukraine (The Advocates for Human Rights Aug. 2014; OECD [2014]). According to the 2013 annual report by the UHHRU, "non-grave crimes and crimes of medium gravity committed within the family" are treated as private cases rather than falling under the jurisdiction of the district militia inspectors (2014, Ch. 22).

SIGI notes that domestic violence is addressed under the Law of Ukraine "On Prevention of Domestic Violence" (ibid.). According to the Advocates for Human Rights, a US-based non-profit organization that works to "implement international human rights standards to promote civil society and reinforce the rule of law" (The Advocates for Human Rights n.d.), the law was adopted in November 2001 (ibid. Aug. 2014).

Article 1 of the law defines domestic violence as

any intentional actions of physical, sexual, psychological or economic nature committed by one family member in relation to other family member, if these actions violate constitutional rights and freedoms of a family member as a person and citizen and inflict moral harm on her/him, harm to her/his physical or [psychological] health. (Ukraine 2001a, Art. 1)

Following criticisms of the law, the government implemented amendments to the 2001 law in 2009 (The Advocates for Human Rights, Aug. 2014). These amendments included the removal of the practice of issuing warnings for "provocative behaviour" [2] (Ukraine 2008, Art. 2(9)); The Advocates for Human Rights Aug. 2014), an increase in "procedural oversight" in regards to "receiving and investigating complaints of domestic violence, and the creation of correctional programs for perpetrators (ibid.). The definition of "family members" was also expanded to include "persons married to each other; persons living as family but not married to each other; their children; persons under guardianship or care; are direct or indirect relatives living together" (Ukraine 2008, Art. 2(1)). The 2008 Law of Ukraine "On Amending Certain Legislative Acts of Ukraine Concerning Improvement of Legislation Combating Domestic Violence," which contains these amendments as well as amendments to the Code of Administrative Offenses, is attached to this Response.

The law allows victims to file a civil report, following which they can apply for a protection order, or file a civil claim for monetary damages (The Advocates for Human Rights Aug. 2014). Once charged with an offence related to domestic violence and spousal abuse, the offender may be detained for up to five days (ibid.; US 25 June 2015, 35).

The Advocates for Human Rights notes that in 2010, the government revised the Code of Administrative Offenses in order to increase the civil penalties in regard to domestic violence (ibid.). Article 173-2 of the Code was amended in 2009 (see Attachment 2) and provides for the following penalties for committing domestic violence, breaching restraining orders or failing to attend a correctional program:

[d]omestic violence, i.e. any deliberate physical, psychological or economic actions (use of physical violence without causing physical pain and bodily injuries, threats, insulting or stalking, deprivation of housing, food, clothes, other property or money to which victim has right given to him by law, etc.) which could or have resulted in damage to physical or mental health of victim, as well as breach of restraining order by person whom this order concerns and failure to attend correctional program by person who committed domestic violence - is punishable by fine in the amount of three to five times the amount of minimum individual income before taxes, or by correctional work for the period of up to one month and withholding of twenty percent of the earned amount, or, if circumstances of the case (considering offender's personality) will warrant the above measures insufficient, by administrative arrest for the period of up to five days.

The same actions committed by person against whom administrative charges were brought for committing any type of offense mentioned above during one year - are punishable by fine in the amount of five to ten times the amount of minimum individual income before taxes, or by correctional work for the period between one and two months and withholding of twenty percent of the earned amount, or, if circumstances of the case (considering offender's personality) will warrant the above measures insufficient, by administrative arrest for the period of up to fifteen days. (Ukraine 2008, Art. 1(1))

The Code was also amended to replace the term "petty hooliganism" with "domestic violence" (ibid., Art. 1(2),(3)).

Sources indicate that the law prohibits rape but does not specifically address spousal rape (US 25 June 2015, 35; OECD [2014]). Ukraine's criminal code states that rape "shall be punishable by imprisonment for a term of three to five years" (Ukraine 2001b, Art. 152). Sources report that perpetrators of spousal rape can be prosecuted under a law that prohibits "forced sex [or sexual relations] with a materially dependent person" (ibid.; US 25 June 2015, 35).

According to the Advocates for Human Rights, the Cabinet of Ministers submitted a bill to Parliament titled "On Preventing and Combating Domestic Violence" in 2013 in "an attempt to harmonize the 'Ukrainian legislative framework'" with the Istanbul Convention [3], but it had not been approved as of August 2014 (The Advocates for Human Rights Aug. 2014). Further information on the status of the bill could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to the Advocates for Human Rights, Parliament amended the Ukrainian Code of Criminal Procedure in 2013 to "prevent law enforcement from removing a perpetrator from the home for 'more than three hours', putting women and children survivors of violence at risk" (ibid.). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. Recourse and State Protection

In a 2013 statement by the representative of Ukraine at the fifty-seventh session of the Commission on the Status of Women, the representative noted that the implementation of the prevention of domestic violence law and its "mechanisms" need "further improvement" (Ukraine 11 Mar. 2013).

According to the UHHRU's 2013 annual report, victims of domestic violence "encounter total indifference on the part of state authorities and law enforcement bodies as they file complaints and petitions trying to protect their rights" (UHHRU 2014, Ch. 22). The same source notes that between January and September of 2013, La Strada's hotline received 225 complaints from victims of domestic violence about the lack of action by state authorities (ibid.).

In regard to the increase in domestic violence since the crisis, Zubchenko states that victims of abuse are "often not willing to ask the police for help" and that women who do reach out to the police are reportedly "often turned away" because the police see it as a "moral crime to accuse ex-soldiers of abuse" (qtd. in Newsweek 23 Apr. 2015). Newsweek notes that police do not want to register reports on domestic abuse, as they believe that the men have suffered enough (ibid.). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to PassBlue, Ukraine "has launched campaigns to promote gender equality and zero tolerance towards domestic violence and trained 2,500 state and nongovernment specialists to work with victims of gender violence" (ibid. 20 Mar. 2015). Andrii Dziubenko, National Program Co-ordinator in Ukraine for the Organization for Security and Co-operation in Europe (OSCE) is quoted in the PassBlue article as stating that "three interactive training rooms to teach police officers [how to] handle domestic violence incidents [were] established in Kiev, Dnipropetrovsk and Lviv" (ibid.). The UNDP similarly reported in 2013 that they partnered with "state-run in-Service Training Centres for civil servants, teachers and line police officers" and organized training for these groups to prevent domestic violence and promote gender equality (UNDP 3 July 2013). The same source indicates that due to their support, "more than 63 percent of all district police officers in the country" have received intensive training on prevention and response to domestic violence (ibid.). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

In 2013, OSCE reported that the government launched a mandate for 12,000 social workers to assist victims of domestic abuse (25 Nov. 2013). Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to Country Reports 2014, through to September of 2014, the Ministry of Internal Affairs received 85,200 domestic violence complaints (US 25 June 2015, 36), in comparison to the 65,797 domestic violence complaints received by the Ministry of Social Policy during the reporting period for 2013 (ibid. 27 Feb. 2014, 34). The same source notes that, based on information from the Ministry of Internal Affairs, 82,200 individuals were being monitored by police "in connection with domestic violence" in 2014 (ibid. 25 June 2015, 36), in comparison to the 88,162 persons under police supervision during the reporting period for 2013 (ibid. 27 Feb. 2014, 24). Punishment for domestic violence included fines, administrative arrest and community service (ibid. 25 June 2015, 36).

3.1 Protective Orders

Article 13 of the 2001 Law of Ukraine "On Prevention of Domestic Violence" provides that a protective order may be issued against a person who committed domestic violence following their receipt of an official warning [4] (Ukraine 2001a, Art. 13(1)). The law provides that a protective order prohibits the offender from committing acts of domestic violence against the victim, obtaining information about the victim's residence, or trying to locate, visit or contact the victim by telephone (ibid., Art. 4). The 2009 amendments state that the time these restrictions are imposed against the offender was increased from a period of 30 days to 90 days (ibid. 2008, Art. 2 (10)). According to Country Reports 2013 and Country Reports 2014, the police issued 95,329 warnings and protection orders for domestic violence in 2013 (US 27 Feb. 2014, 34) and 68,198 domestic violence warnings and protection orders in 2014 (ibid. 25 June 2015, 36). According to the UHHRU annual report for 2013, there were 89,168 warnings and 6,160 protection orders issued in 2013 (2014, Ch. 22). The same sources indicate that the courts "considered" close to 39,700 administrative orders for domestic violence and disobeying protection orders in 2014 (ibid. 25 June 2015, 36), in comparison to the 108,467 administrative charges brought against individuals by authorities during the reporting period for 2013 (ibid. 27 Feb. 2014, 34). Information regarding the effectiveness of protective orders could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

4. Support Services

According to Country Reports 2014, human rights groups stated that preventive services were underfunded, underdeveloped and that the abilities of agencies to "detect and report cases of domestic abuse was limited" (US 25 June 2015, 35). The same source further notes that "[g]overnment centres offered only limited legal, psychological and economic assistance to victims of domestic violence" (ibid., 36). The UHHRU annual report for 2013 similarly indicates that support services for victims of domestic violence are inadequate and underfunded by state authorities (2014, Ch. 22).

4.1 National Hotline

Sources indicate that there is a national hotline for victims of domestic violence, trafficking and gender discrimination, which is operated by La Strada Ukraine (UHHRU 2015, 275; Newsweek 23 Apr. 2015; La Strada Ukraine n.d.b). Women Against Violence Europe (WAVE), a network of NGO's working in the field of combating violence against women and children (WAVE n.d.), notes that the hotline is free but does not operate 24/7 (ibid. 2014).

According to Country Reports 2013, through to June 2013, La Strada Ukraine received 3,990 calls for assistance related to domestic or sexual violence, representing 93 percent of calls received by the hotline (US 27 Feb. 2014, 34). Sources report that La Strada Ukraine received approximately 7,000 calls to the hotline in 2014, of which approximately 70-80 percent were related to domestic violence (Newsweek 23 Apr. 2015; RFE 26 Apr. 2015). According to Zubchenko, the organization received over 2,600 calls during the first three months of 2015; the total number of calls received by the hotline has "risen more than twofold" in 2015 (ibid.).

Sources report that La Strada Ukraine identified a number of calls pertaining to women suffering abuse from partners or husbands who return from fighting in the east (ibid.; Newsweek 23 Apr. 2015). Newsweek reports that La Strada Ukraine received "40 calls last year [2014] from women who had suffered 'severe abuse' at the hands of their partners who are soldiers, this number has nearly been equalled already this year" (ibid.).

According to the 2013 statement by the representative of Ukraine, a "hotline network" was launched and the hotlines operate in social services centres as well as being run by community and charitable organizations (Ukraine 11 Mar. 2013). The same source notes that the hotline network aims to provide free psychological, social, medical and legal assistance to victims of domestic violence (ibid.).

4.2 Shelters

Sources report that there are only three shelters for victims of domestic abuse in the country (PassBlue 10 Mar. 2015; WAVE 2014). WAVE notes that the three shelters together have a capacity to accommodate 100 people and that 98 percent of "recommended shelter places are still absent" (WAVE 2014). Zubchenko stated that there are shelters in every region in Ukraine, but that they can each accommodate an average of 30 women and children (RFE/RL 26 Apr. 2015). She noted that there is usually only one shelter per region, and that some regions have as many as 10 million residents, making the number of spaces "completely inadequate" (ibid.).

Country Reports 2014 notes that, in part due to lack of funding, the government did not operate a shelter in every major city as required by law (US 25 June 2015, 36). The same source further reports that according to women's advocacy groups, "municipally and privately funded shelters were not always accessible," some shelters "did not function throughout the year," "administrative restrictions prevented women and children from accessing services," and that the shelters were frequently full and had limited resources (ibid.). The report by SIGI similarly states that while shelters exist, they lack financial support from the government and local authorities (OECD [2014]). According to Country Reports 2014, NGOs operated additional centres for victims of domestic violence in several regions, but women's rights groups noted that many non-government shelters closed due to lack of funding (US 25 June 2015, 36). The same source reports that there were no shelters for adult victims of domestic violence in the Kharkiv, Vinnytsya or Poltava Kherson regions (ibid.). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

4.3 Social and Psychological Centres

Country Reports 2014 states that officials reported that there were 20 centres providing social and psychological help, and 9 centres providing psychological and legal help, to victims of domestic violence (ibid.). The source notes that through September of 2014, according to statistics from the Ministry of Social Policy, government centres provided domestic violence-related services to 14,463 people in the form of social-psychological assistance (ibid.), in comparison to 797 individuals in 2013 (ibid. 27 Feb. 2014, 34). The same source further notes that social services assisted 1,688 families in 2014 with regards to domestic violence and child abuse (ibid. 25 June 2015, 36), in comparison to 1,517 families in 2013 (ibid. 27 Feb. 2014, 34). However, the source

also reports that there are concerns that government austerity measures implemented in 2014 "could lead to the elimination of some services provided by these centers" (ibid. 25 June 2015, 36). Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

5. Residence Registration System

Information on the residence registration system, including its effect on victims that try to relocate, was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

Country Reports 2014 notes that some shelters did not admit women "who were not registered as local residents" or children of certain ages (US 25 June 2015, 36). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Information on specific support services available to individuals who are stalked or harassed by a perpetrator could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] La Strada Ukraine is part of La Strada International, an international women's rights network that comprises member organizations in eight countries, including Ukraine (La Strada International n.d.a; ibid. n.d.b).

[2] The provocative behaviour provision allowed police, by law, to issue warnings to victims of domestic abuse for provoking violence (SIGI 2014; The Advocates for Human Rights Aug. 2014).

[3] The Istanbul Convention is another name for the Council of Europe Convention on the Prevention and Combating Violence Against Women and Domestic Violence (CoE n.d.). Ukraine signed the Convention in 2011, but as of July 2015, had not ratified it (CoE 9 July 2015).

[4] Article 10(2) of the law provides that an official warning "about impermissibility of committing domestic violence" can be issued to a "capable" person who is at least 16 years old (Ukraine 2001a, Art. 10(2)).

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Additional Sources Consulted

Oral sources: The following were unable to provide information for this Response: The Advocates for Human Rights; Organization for Security and Co-Operation in Europe.

Attempts to contact the following were unsuccessful within the time constraints of this Response: associate professor, Institute of Comparative Studies in Literature, Art and Culture, Pauline Jewett Institute of Women's Studies; La Strada Ukraine; Women and Gender Studies Institute, University of Toronto; Department of Women's Studies, University of Waterloo; National Endowment for Democracy; Peace Corps, Ukraine, Gender and Development Council; Ukraine - Embassy in Ottawa.

Internet sites, including: American Psychological Association; Amnesty International; Council of Europe; ecoinet; Freedom House; Human Rights Watch; Institute for War and Peace Reporting; IRIN; Minority Rights Group International; Ukraine - Embassy in Ottawa, Ministry of Internal Affairs, Ministry of Youth and Sports, Parliament Commissioner for Human Rights; Ukrainian Women's Fund; Winrock International.

Attachments

Ukraine. 2008. Law of Ukraine "On Amending Certain Legislative Acts of Ukraine Concerning Improvement of Legislation Combating Domestic Violence." [Accessed 30 June 2015]

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