

A year ago the Law “On Prevention and Counteraction to Domestic Violence” was adopted in Ukraine. In the beginning of 2019 domestic violence will be criminalized. The Law foresees a number of services for domestic violence victims as well as guarantees the inevitability of punishment for offenders. All stakeholders in the field of prevention and counteraction to domestic violence coordinate their work to provide prompt assistance to those who need it.

The United Nations Population Fund (UNFPA) started working in this sphere at the beginning of military conflict in Donbas area. In cooperation with the Ministry of Social Policy of Ukraine and financial assistance of the governments of the United Kingdom, Canada and Estonia, UNFPA launched a program “Comprehensive Approach to Solving the Problem of Violence against Women and Girls in Ukraine”. One of the program’s aims is to make victims vocal, to make them aware that there are services to call to and receive effective assistance. The most important is to make such qualitative services available and accessible all around Ukraine.

List of references

1. <https://ukraine.unfpa.org/en/GBV2>.
2. On the prevention of domestic violence: Law of Ukraine dated 15.11.2001, No. 2789 (as amended in accordance with the Law No. 609-V of February 7, 2007) // 2007. - No. 15. - Art. 194.
3. The Criminal Code of Ukraine. Criminal Procedure Code of Ukraine. K. : Yurinkom Inter, 2019.
4. <https://www.legislationline.org/documents/id/5052>.

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PRINCIPLE OF ACCURACY OF QUALIFICATION OF CRIMES

In the application of the norms of the Criminal Code of Ukraine (hereinafter – the Criminal Code) one of the most important stages is the qualification of crimes. During the qualification, it is established what exactly the crime committed by a person and what

norm of the Criminal Code establishes responsibility for him. Consequently, under the qualification of crimes should be understood as the establishment of full compliance of its features signs of the norm, which implies responsibility for committing this particular crime. Thus, the qualification of a crime consists in the search and establishment of an article (articles, parts or clauses of the article) of the Criminal Code, which provides for liability for a socially dangerous act committed.

The concept of qualification of crimes is used in the Criminal Code, the Criminal Procedure Code of Ukraine, in various branches of law and legal science, but its legislative definition does not exist, which is fairly criticized by scientists (V. Kuznetsov, V. Navrotsky, A. Savchenko and others) Similarly, the legislator does not define principles, rules (with some exceptions), structure, types, functions, stages of qualification of crimes.

Qualification of crimes is based on certain general provisions (principles). Knowledge of these principles is the key to success in scientific, theoretical and practical work. Principles of qualification of crimes are general principles, starting points, which should be guided by establishing the correspondence between the actual features of the offense and the features enshrined in the criminal law, when seeking articles of the criminal law, which provides for liability for the crime. On the basis of such principles, a choice of a criminal law that involves responsibility for a committed act is carried out, the necessity of applying this norm is established and the conclusion is made that the act is covered by the chosen norm. As noted earlier, the principles of qualification of crimes are not enshrined in the criminal law, therefore their types, system and contents reveal the theory of qualification of crimes. It is possible, based on the analysis of the norms of the Constitution of Ukraine, the criminal law provisions of the General and Special Parts of the Criminal Code, international legal acts, approved by our state, based on the generally accepted theoretical postulates and positions, which are followed by law enforcement practice, to establish which provisions are the principles of qualification of crimes. According to V. Kuznetsov the qualification of crimes should be carried out with the observance of the following principles: legality, officiality, objectivity, accuracy, individuality, completeness, resolution of controversial issues in favor of the person

whose actions qualify, the inadmissibility of double attitude to guilt, the stability of qualifications.

The requirement for the accuracy of qualifications was emphasized by many scholars, although for some time it was not considered an independent principle. Action is qualified under the article of the criminal law, which most accurately describes its features. In the event that the article of the criminal law, on which the act is qualified, is set forth in another version, the editorial office of the law applicable in the particular case shall also be indicated. Execution of qualification of crimes involves an indication of the article of a criminal law, and if the article contains parts or items, then the corresponding part or item. In formulating the charges, they indicate all the available evidence of the crime in question. If the normative legal acts of other branches of the law are analyzed (in the presence of blanket dispositions), an article, paragraph, paragraph, which provide for the perpetrated violation, should be determined, and the essence of which should be clarified, which will help in the formulation of the prosecution.

When qualifying for preparation for a crime or attempt on a crime, part of the article of the criminal law, which provides for the appropriate kind of preliminary criminal activity, is indicated. In the process of application of the norms of the Criminal Code arise questions of the correct qualification of unfinished crimes. In accordance with Article 16 of the Criminal Code, criminal liability for preparing for a crime and an attempt to commit an offense comes under article 14 or 15, and under the article of the Special Part of the Criminal Code, which provides for liability for a completed crime. In our opinion, one of the drawbacks of the present Criminal Code is the lack of rules for the classification of crimes provided by the legislator. Only some of the rules of skill developed by the theory of criminal law and judicial practice are enshrined in the law on criminal liability. Article 16 of the Criminal Code is one of the few rules that establish such rules, but its provisions require additional interpretation. There is no doubt that «according to Article 14 or 15, and under the article of the Special Part of the Criminal Code, which provides for responsibility for a completed crime,» the qualification of an unfinished crime can not be carried out. Articles 14, 15 and the vast majority of articles of the Special Part of the Criminal Code are

structured by the legislator. Articles on preparation and attempted crime consist of parts, as well as articles of the Special Part of the Criminal Code may consist of parts that provide for criminal law on liability for various degrees of gravity of separate completed crimes. Therefore, we believe that the content of Article 16 of the Criminal Code should be clarified. In the process of qualification of unfinished crimes, only Part 1 of Article 14 or paragraphs 2 or 3 of Article 15 of the Criminal Code and the relevant parts of articles or articles (if they consist only of one part) of the Special Part of the Criminal Code, which provide for liability for the corresponding completed crime, may be applied.

During the qualification of the crimes committed in complicity, a part of the article of the criminal law providing for the corresponding type of accomplice (Part 3-5 of Article 27 of the Criminal Code), other than the executor (co-executor), is indicated. In accordance with Part 1 of Art. 29 Criminal acts of the executor (co-executor) qualify only for the article of the Special Part of the Criminal Code, which provides for the crime committed by him. However, judicial practice does not always adhere to such a requirement of the legislator. For example, by the resolution of the Monastyrische district court of Cherkasy region dated April 6, 2011, it was established that the bodies of pre-trial investigation are accused of OSOBA_1 under Part 2 of Art. 27, part 3 of Art. 185 of the Criminal Code. Violations during pre-trial investigation are not established. There are no grounds for re-training the actions of the accused.

In the case of competition of articles of the criminal law, one of which contains a special norm and is intended to qualify certain acts, and the other - general (along with this act covers other acts), only a special rule applies. Simultaneous qualification under general and special rules is excluded, although there are exceptions to this rule. If an act is not covered by any of the special rules, then it qualifies as a general rule.

The accuracy of the qualification of crimes must be achieved irrespective of whether it affects the possible punishment or otherwise affects the criminal status of the person whose act is qualified.