

HOW THE LAW PROTECTS INDIVIDUALS FROM DOMESTIC VIOLENCE IN POLAND AND UKRAINE: A COMPARATIVE STUDY

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Abstract. One of the most important human rights is the right to life. This right is subject to protection in all spheres of public life. One area of protection of the right to life is the protection of individuals from domestic violence. In this article, based on the analysis of statistical data, it is established that – despite the ratification of the Istanbul Convention and systematic measures to implement its provisions – the level of domestic violence remains extremely high in Ukraine and Poland. The differences between the initiation of pretrial domestic violence investigations in Ukraine and Poland are analyzed, and the peculiarities of the initiation of *ex parte* and *ex officio* proceedings are determined. On the basis of this research, recommendations are put forward to improve the Ukrainian criminal procedure legislation. In particular, proceedings on the fact of having committed domestic violence should be initiated regardless of the existence of a victim statement – that is, *ex parte* proceedings should be changed to *ex officio* proceedings.

Keywords: Istanbul Convention, gender, violence, women, domestic violence, *ex parte* proceedings, *ex officio* proceedings.

Introduction

One of the most important functions of criminal law is the reduction or complete elimination of cases of violence, including those in the context of family life. It should be emphasized that both social and legal measures of family protection arise mainly from the fact that the family is the main social unit; the possibility of coexistence between groups of people and the State as a whole depends on its proper functioning. Currently, the goal of both Polish and Ukrainian legislators is to ensure a situation in which families would be free from violence, or this violence would occur only sporadically. After all, both Poland and Ukraine have ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (hereinafter – the Istanbul Convention). However, Ukraine only ratified the Istanbul Convention in 2022, and has not yet received any reports on the results of its implementation.

In contrast, Poland ratified the Istanbul Convention on April 27, 2015. The ratification process was accompanied by persistent debates, with most of the controversy surrounding the fundamental concepts of the Convention (in the spirit of anti-gender discourse), the structural nature of violence against women and gender discrimination, and the obligation of the State to counter stereotyped gender roles (Balogh, 2020). The Convention has been a tool for real change in Polish law and practice, particularly with regard to sexual and domestic violence (Sękowska-Kozłowska, 2020). Poland submitted its first report to the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) on 26 March 2020. Given that Poland has ratified the Convention and has been implementing it for more than 8 years, this experience presents an interesting subject for research, as Poland is ahead in terms of the application of the Convention's provisions. It is also interesting to compare Polish and Ukrainian experience with regard to the

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results of combatting domestic and gender-based violence – in particular, the number of recorded crimes, the consequences of their consideration by the pretrial investigation authorities and courts, etc.

The research methodology used in this study is based on a combination of general scientific methods (analysis, synthesis, abstraction, etc.) and the system-structural and comparative law methods. The methods of analysis and comparison are used to process the statistical data of the pretrial investigation authorities and courts of Ukraine on criminal offenses for January–June 2021, 2022, 2023 (Prosecutor General’s Office, n.d.) and reports of the police authorities of Poland for 2020, 2021, 2022, and 2023 (Police Statistics, n.d.-a), along with data from surveys of women in Poland (Grabowska & Grzybek, 2016). Based on the analysis, certain correlations are established that lead to the formulation of numerous conclusions (section 1). The goal of the article is to analyze the differences between the initiation of a pretrial investigation on domestic violence in Ukraine and Poland, and to determine the peculiarities of the initiation of *ex parte* and *ex officio* proceedings. The latter is essentially an analysis of the legislation of Poland and Ukraine with regard to the implementation of the provisions of Art. 55 of the Istanbul Convention. Thus, section 2 is dedicated to researching the compliance of the national legislation of Ukraine and Poland with the provisions of the Istanbul Convention regarding the initiation of the procedure for bringing perpetrators to criminal responsibility.

The methodology first entailed a desk review of previous research by the author of this article (Demura, 2024), as well as other researchers from Poland (Gawinowska, 2021; Niemi & Sanmartin, 2020; Sękowska-Kozłowska, 2020; Burek, 2020, etc.) and Ukraine (Uliutina et al., 2021; Humin et al., 2021; Zohal, 2022; Teremetskyi et al., 2024, Popika, 2024; Bysaha, 2024; Ablamskyi et al., 2023, etc.). To the extent necessary for this study, research published by international organizations was reviewed and analyzed further, including GREVIO’s (2021) work on legislative and other measures giving effect to the provisions of the Istanbul Convention. Additional data was used from the submission of the Commissioner for Human Rights (2020) of the Republic of Poland to GREVIO on the implementation of the Istanbul Convention in Poland. Unfortunately, a similar GREVIO report for Ukraine has not yet been compiled, which makes it impossible to compare the achievements of Poland and Ukraine in implementing the Istanbul Convention. At the same time, this article uses data from the Shadow Report for GREVIO on the implementation of the Istanbul Convention by Ukraine produced in 2024 (EHRAC et al., 2024).

Before proceeding with the main material of the study, it is necessary to explain the choice of Poland as a country for comparative analysis. The first factor is the proximity of the territorial locations of Ukraine and Poland. It is through the analysis of legislation and practice in such close territories that significant differences in the implementation of the international norms in national law can be most obviously demonstrated. The second factor is the common historical past – in particular, having been under the influence of the Union of Soviet Socialist Republics (USSR) for such a long time. This study will illustrate the differences between the approaches to domestic violence in these countries that have long shared a common history, but have been developing on their own for more than 30 years. The third factor, as mentioned above, is that Poland submitted its first report to GREVIO on March 26, 2020, and received its first evaluation report in 2021 (GREVIO, 2021). Unlike Poland, Ukraine has not received a similar report, and has only recently submitted a State report addressed to GREVIO (Report submitted by Ukraine, 2023). These factors together explain the choice of Poland as a jurisdiction for comparison.

Gender and violence against women are central concepts in the Istanbul Convention. The Convention’s conceptualization of violence is important, as it guides the interpretation of the measures and provisions of the Convention. The Convention defines violence in several ways (Niemi & Sanmartin, 2020). Within the meaning of the Istanbul Convention:

“violence against women” is understood as a violation of human rights and a form of discrimination against women, and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or in private life; “domestic violence” as all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim (Art. 3).

According to the Polish legislation, domestic violence (Pol. *przemoc w rodzinie*) is prosecuted under Art. 207 of the Criminal Code of Poland (CC of Poland, 1997) as “Cruel Treatment,” and consists of physical or mental violence against a person close to a perpetrator or against another person who is permanently or temporarily dependent on a perpetrator, or against a person who is in a vulnerable state due to their age or physical or mental condition. According to the definition of the Supreme Court,

violence means an action or inaction consisting in the intentional infliction of physical pain or acute moral suffering, repeatedly or once, but intense and characterized by the exceptionally cruel attitude of a perpetrator towards a victim. Physical violence is the infliction of physical pain that negatively affects the human body.

The Law of Ukraine No. 2227-VIII of December 6, 2017, criminalized domestic violence, which entailed changes to the procedural law. Art. 126-1 was added to the Criminal Code of Ukraine (CC of Ukraine, 2001), and criminal responsibility for domestic violence was provided. Such a legislative initiative is related to the need to implement the provisions of the Istanbul Convention into the criminal legislation of Ukraine. After the introduction of the specified changes, the Law of Ukraine “On Ratification of the Convention of the Council of Europe on the Prevention of Violence Against Women and Domestic Violence and Combating These Phenomena” No. 2319-IX was only adopted on June 20, 2022. This law entered into force on July 2, 2022, and the Istanbul Convention entered into force for Ukraine on November 1, 2022. The Supreme Court defines a crime related to domestic violence as any criminal offense, the circumstances of which include at least one of the elements listed in Art. 1 of the Law of Ukraine “On Prevention and Combating Domestic Violence,” regardless of whether they are specified in the relevant Article (or part of the Article) of the CC of Ukraine as signs of a substantive crime or an aggravation (Resolution of the Unified Chamber of the Cassation Criminal Court of the Supreme Court dated February 12, 2020; case No. 453/225/19).

Having outlined the context of domestic violence legislation in these two countries, a comparative analysis of the following data can be conducted:

1. Statistical data of the pretrial investigation authorities on the number of registered proceedings on cases related to domestic violence and their subsequent progress within the framework of criminal proceedings in Ukraine and Poland

In order to confirm the relevance of the chosen topic and the importance of its further research, reference should be made to the statistical data of the pretrial investigation authorities regarding the number of registered proceedings and their subsequent progress within the framework of a criminal proceeding.

1.1. Ukraine

In order to conduct a comparative analysis, statistical data from Ukraine for the first half of 2021, 2022, and 2023 shall be used applying the following criteria: the number of recorded criminal offenses; the number of criminal proceedings in which persons were served with a notice of suspicion; the number of criminal proceedings sent to court; the number of criminal proceedings sent to court with an indictment; the number of criminal proceedings in which a proceeding was closed; and the number of criminal proceedings in which no decision had been made (on termination or suspension) at the end of the reporting period (Prosecutor General’s Office, n.d.). This time interval was selected due to the importance of emphasizing the growth of indicators for 2023 compared to previous years. For example, in the first half of 2023, the number of registered criminal proceedings almost doubled, as well as the number of notices of suspicion, etc.

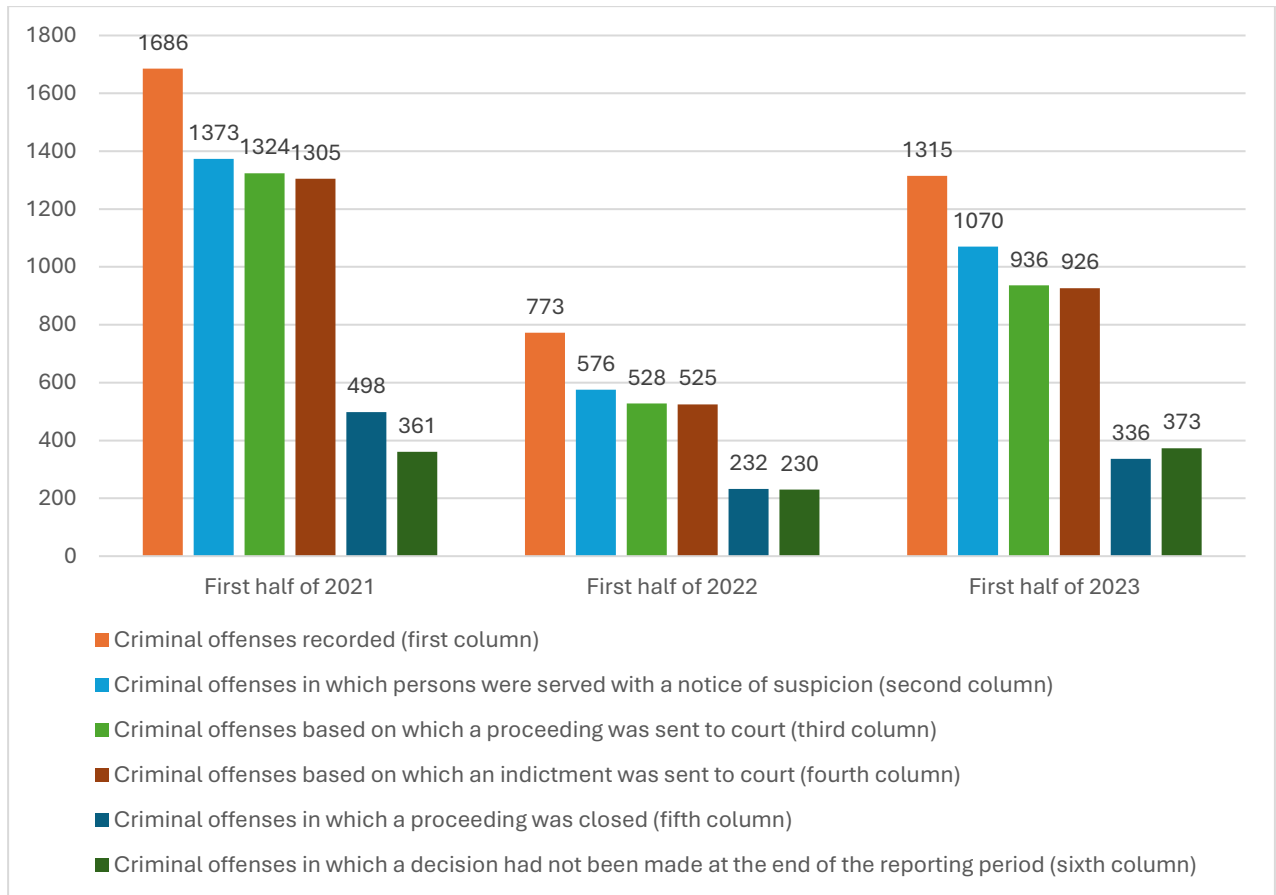


Figure 1. Data from the Ukrainian pretrial investigation authorities regarding the recording and progress of criminal proceedings for the first half of 2021, 2022, and 2023.

The data from the Prosecutor General’s Office (n.d.) indicate that in the first half of 2022, the number of criminal offenses and other data recorded significantly decreased. This is particularly well illustrated by the data from the first half of the year, when active hostilities took place in a significant part of the territory of Ukraine, and there was also the active displacement of the population both within the territory of Ukraine and abroad.

Ablamskyi et al. (2023) also provide interesting statistical data on the registration of criminal offenses related to domestic violence and their interpretation. According to the analysis of data on domestic violence, in the first months of the full-scale invasion of the Russian Federation the recorded number of cases of domestic violence decreased compared to previous years. Thus, in the first half of 2022, compared to the first half of 2021, there were 27.5% fewer appeals to the National Police of Ukraine regarding domestic violence. In the period from January 1, 2022, to June 30, 2022, the Prosecutor General’s Office recorded 56% fewer criminal proceedings in the context of domestic violence compared to the same period in 2021.

This difference in quantitative indicators for different years can be explained as follows: 1) a sufficiently large number of situations related to domestic violence are considered by the community to be an exclusively private matter, and the affected persons do not want to report this fact or are subjected to pressure from one side of the family or the general public; 2) in the conditions of war, many people are constantly searching for safety, and in some areas there was a lack of communication for a long time, which did not make it possible to report possible cases of domestic violence (Teremetskyi et al., 2024).

1.2. Poland

According to the statistical data of the Polish police authorities, in 2020, 59,701 applications for the initiation of a domestic violence procedure were received; the number of persons who experienced domestic violence was 85,575, of which 62,866 were women, 10,922 were men, and 11,787 were minors; and the number of

persons suspected of committing domestic violence was 73,228, of which 6,677 were women, 66,198 were men, and 353 were minors (Police Statistics, n.d.-a).

In 2021, 53,985 similar applications were received; the number of persons who experienced domestic violence was 75,761, of which 55,112 were women, 9,520 were men, and 11,129 were minors; and the number of persons suspected of committing domestic violence was 64,846, of which 6,173 were women, 58,349 were men, and 324 were minors (Police Statistics, n.d.-a).

In 2022, 52,569 applications for the initiation of the procedure were received; the number of persons who experienced domestic violence was 71,631, of which 51,935 were women, 8,714 were men, and 10,982 were minors; and the number of persons suspected of committing domestic violence was 62,244, of which 6,497 were women, 55,426 were men, and 321 were minors (Police Statistics, n.d.-a).

In 2023, the number of applications was 54,029; the number of persons who experienced domestic violence was 77,832, of which 51,631 were women, 9,162 were men, and 17,039 were minors; and the number of persons suspected of committing domestic violence was 63,016, of which 7,595 were women, 55,225 were men, and 196 were minors (Police Statistics, n.d.-a).

This data is illustrated in Figure 2.

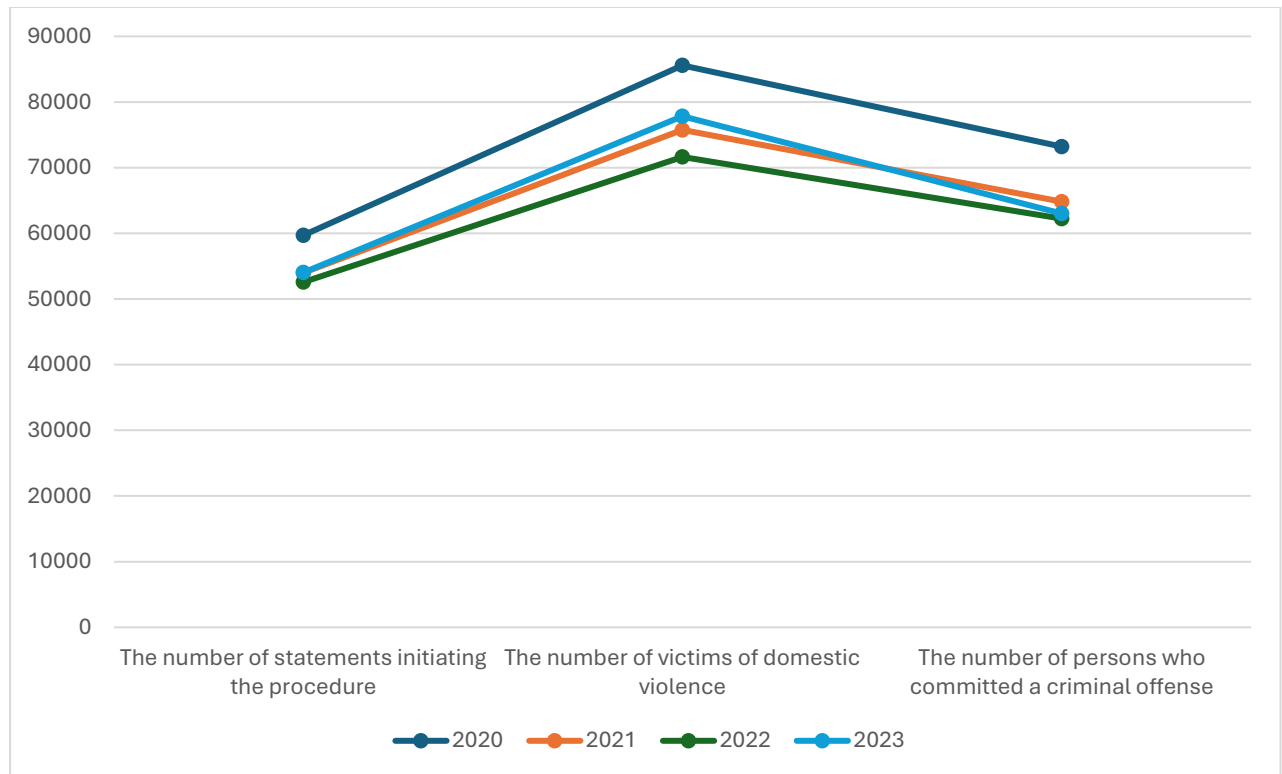


Figure 2. Statistics on the initiation of domestic violence proceedings in Poland in 2021–2023.

It is worth specifying that Figure 2 represents statistical data from the police, and does not take into account data on the activities of other non-police entities authorized to combat domestic violence in Poland. Since 2012, the system of statistical registration of domestic violence has changed, and the form of data presentation has also changed. The above figures refer to the actions taken by the police authorities under the Blue Card procedure.

As for qualitative indicators, it can be seen that women form the largest group of victims of domestic violence. The Center for Women's Rights estimates that the principal reason for men's violent attitudes relates to a particular male approach to women. This approach is rooted in the assumption that social gender roles give men an advantage, and the power to subjugate women. This finding is supported by the fact that men

who abuse women and children rarely use violence against people they consider as equals (Chrzczonowicz, 2020). Gender-based violence significantly affects the social positions of women. In particular, domestic violence in Poland results in more instances of women being killed than any other type of criminal activity (Gawinowska, 2021).

Proceedings can be traced from their registration to putting the crime for which the perpetrator has been prosecuted on record (Table 1). The relevant authorities for summarizing statistical data in Poland provide the following data according to Art. 207 of the CC of Poland on “Cruel Treatment.”

Year	Number of initiated proceedings	Number of recorded crimes
2020	28,912	16,259
2019	30,456	16,416
2018	28,786	15,269
2017	28,608	15,824
2016	26,633	14,513
2015	27,642	14,191
2014	30,901	17,523
2013	29,879	17,513
2012	29,193	17,785
2011	29,958	18,832
2010	30,534	18,759

Table 1. Data from the pretrial investigation authorities regarding initiated and recorded crimes under Art. 207 of the CC of Poland for 2010–2020 (Police Statistics, n.d.-b).

Fluctuations can be seen in the number of proceedings initiated per year and the consequences of the consideration of such proceedings. As Table 1 depicts, the number of prosecutions is almost half the number of all initiated proceedings. Comparing the data in Table 1 with the above data on the number of statements submitted to the police authorities for the initiation of the procedure within the framework of the Blue Card program makes it possible to assert that not every statement for the initiation of the procedure regarding domestic violence results in the initiation of a criminal proceeding under Art. 207 of the CC of Poland. In 2020, for example, 59,701 statements for the initiation of the procedure were received, 28,912 criminal proceedings were initiated, and perpetrators were brought to responsibility for 16,259 crimes.

The statistical data is slightly different from the data that come from surveys of women in Poland. According to a 2016 study by the STER Foundation, 87% of female respondents had experienced some form of sexual harassment. Furthermore, 22% of surveyed women had been raped. In these cases, the culprits were mostly current (22%) or ex-partners (63%). As much as 55% of rapes occurred in private apartments (Grabowska & Grzybek, 2016, p. 8). This survey reveals that there is a much greater rate of occurrence of this crime than actual applications for the initiation of the procedure to law enforcement agencies would suggest, indicating the high latency of domestic violence.

1.3. A Comparative Analysis of the Statistical Data of Poland and Ukraine

Comparing the quantitative indicators of Poland and Ukraine, we can say that in Poland, the police authorities receive on average 18 times more statements on domestic violence than in Ukraine. In order to assess these data, our attention must turn to the population figures in Poland and Ukraine. In connection with the full-scale invasion of the Russian Federation into the territory of Ukraine, the Institute of Demography cannot determine the exact population of Ukraine in 2024, giving only an approximate figure: from 28 million to 34 million citizens. As of January 1, 2022, the population was 41,167,300. As for Polish data, at the end of June 2023, the population of Poland was 37,698,000.

If we compare the data for 2020, the conclusion is as follows: despite a population of almost 3.5 million more people, the number of registered applications in Ukraine was 18 times less than in Poland.

It can be concluded, therefore, that Ukraine currently does not have a sufficient number of legal mechanisms for detecting and recording the facts of domestic violence. Also, in the opinion of the author, the population is not sufficiently informed about the possibility of bringing perpetrators to criminal responsibility. Equally important is the fact that proceedings related to domestic violence are in the form of a private prosecution – that is, they are initiated solely based on the statement of a victim. Therefore, if a victim does not file such a complaint, it is not possible to prosecute a perpetrator. This provision will be discussed in more detail in section 2 of this article. In addition, the introduction of martial law and the potential for its extension is an additional risk factor. One of the priority areas in terms of martial law is the prevention of domestic violence by servicepeople and veterans. Since military factors (combat exposure and mental health problems) are risk factors for general violence, research on their effects on domestic violence is limited. Some researchers have compared the prevalence of domestic violence among a large sample of British military personnel and examined the risk factors related to domestic violence. The prevalence of domestic violence immediately after returning from military service was 3.6%, where domestic violence was significantly associated with discharge from military service (Kwan et al., 2018). After Ukraine's victory, this area may acquire a fundamentally new meaning in view of the return of a significant number of active servicepeople to their families, which necessitates the development of comprehensive strategies and programs aimed at preventing domestic violence among servicepeople and veterans at the current stage (Teremetskyi et al., 2024).

2. A Comparative Research of ex parte and ex officio Proceedings Under the Legislation of Ukraine and Poland

2.1. Ukraine

After analyzing the Ukrainian practice of applying the law, comparative research between the legislative provisions of Poland and Ukraine on the peculiarities of initiating a pretrial investigation in proceedings related to domestic violence and other types of violence can be conducted.

In this aspect, it is important to acknowledge Art. 55 of the Istanbul Convention on “Ex parte and ex officio proceedings.” Art. 55(1) of the Istanbul Convention places on parties the obligation to ensure that investigations into a number of categories of offences shall not be wholly dependent upon the report or complaint filed by a victim, and that any proceedings underway may continue even after a victim has withdrawn their statement of complaint.

For the sake of the completeness of this research, a list of the *corpus delicti* of criminal offenses which should not depend on a statement or complaint of a victim for investigation is included: Art. 35 – physical violence; Art. 36 – sexual violence, including rape; Art. 37 – forced marriage; Art. 38 – female genital mutilation; and Art. 39 – forced abortion and forced sterilization.

Art. 55(2) of the Istanbul Convention obliges the parties to this Convention to

take the necessary legislative or other measures to ensure, in accordance with the conditions provided for by their internal law, the possibility for governmental and nongovernmental organizations and domestic violence counsellors to assist and/or support victims, at their request, during investigations and judicial proceedings concerning the offences established in accordance with this Convention.

The first part of the provision of the Istanbul Convention noting that “investigations ... shall not be wholly dependent upon the report or complaint filed by a victim ...” has not yet been reflected in the Ukrainian legislation, and its implementation should be considered. As of today, such criminal offenses as domestic violence (which includes sexual, physical, and other types), rape, and others involve proceedings in the form of private prosecution – that is, proceedings that are initiated exclusively based on a victim's statement (Art. 477(1) of the Criminal Procedure Code of Ukraine (CPC of Ukraine, 2013)). Within the meaning of the Istanbul Convention, these proceedings are investigated ex parte. In fact, this indicates the need to change

the approach to such categories of criminal offenses in order to carry out proceedings on them even in the absence of complaints or statements from victims. In other words, they must be excluded from the list of private prosecution offenses.

The second part of the cited provision of Art. 55(1) of the Istanbul Convention, that any proceedings underway may continue even after a victim has withdrawn their statement of complaint, has been implemented in Ukrainian national legislation. Specifically, the withdrawal of a victim's accusation is not grounds for terminating the proceedings (Art. 284(1)(7) of the CPC of Ukraine). Thus, this regulatory provision stipulates that criminal proceedings shall be terminated if the victim – or, in cases provided for by the CPC of Ukraine, their representative – withdraws the accusation in a private prosecution criminal procedure, except for in criminal proceedings related to domestic violence. Therefore, a kind of “safeguard” is currently established in the Ukrainian criminal procedure legislation regarding the closure of proceedings in cases of domestic violence.

An interesting aspect of this research is the provision regarding the possibility of concluding agreements in cases related to domestic violence. Thus, according to Art. 469(1) of the CPC of Ukraine, “a conciliation agreement in criminal proceedings regarding criminal offenses related to domestic violence may be concluded only at the initiative of a victim, their representative or legal representative.” Therefore, in general, it is possible to conclude a conciliation agreement in such categories of cases, but only at the initiative of the victim. Still, the issue arises as to whether a victim of domestic violence, who is often in a state of emotional, physical, or psychological dependence on their abuser, can freely exercise their rights. The answer to this issue lies in the specifics of each case, but at the same time there is an extremely high probability that an abuser will continue to exert illegal influence on a victim to coerce them into concluding a conciliation agreement, thereby reducing the severity of punishment and obtaining other advantages.

The authors of shadow report on the implementation of Istanbul Convention in Ukraine (EHRAC et al., 2024) insist on the necessity of introducing changes in the criminal procedure legislation – in particular, introducing amendments to Art. 469(1) of the CPC of Ukraine determining that conciliation agreements in criminal proceedings in criminal offences related to domestic violence are not allowed.

In order to illustrate the importance of raising this issue, reference to the data from judicial statistics on the number of agreements concluded in proceedings regarding domestic violence under Art. 126-1 of the CC of Ukraine should be made. In 2021, among 1,498 criminal proceedings held under Art. 126-1, 435 sentences were passed with the approval of a conciliation agreement, and 24 sentences with the approval of a plea agreement (The Judiciary of Ukraine, 2021). In 2022, of the 962 criminal proceedings initiated, 261 sentences were passed with the approval of a conciliation agreement, and 31 sentences with the approval of a plea agreement (The Judiciary of Ukraine, 2022). In 2023, from 1,537 criminal proceedings considered, 328 sentences were passed with the approval of a conciliation agreement, and 71 sentences with the approval of a plea agreement (The Judiciary of Ukraine, 2023).

These data are visualized in Figure 3.

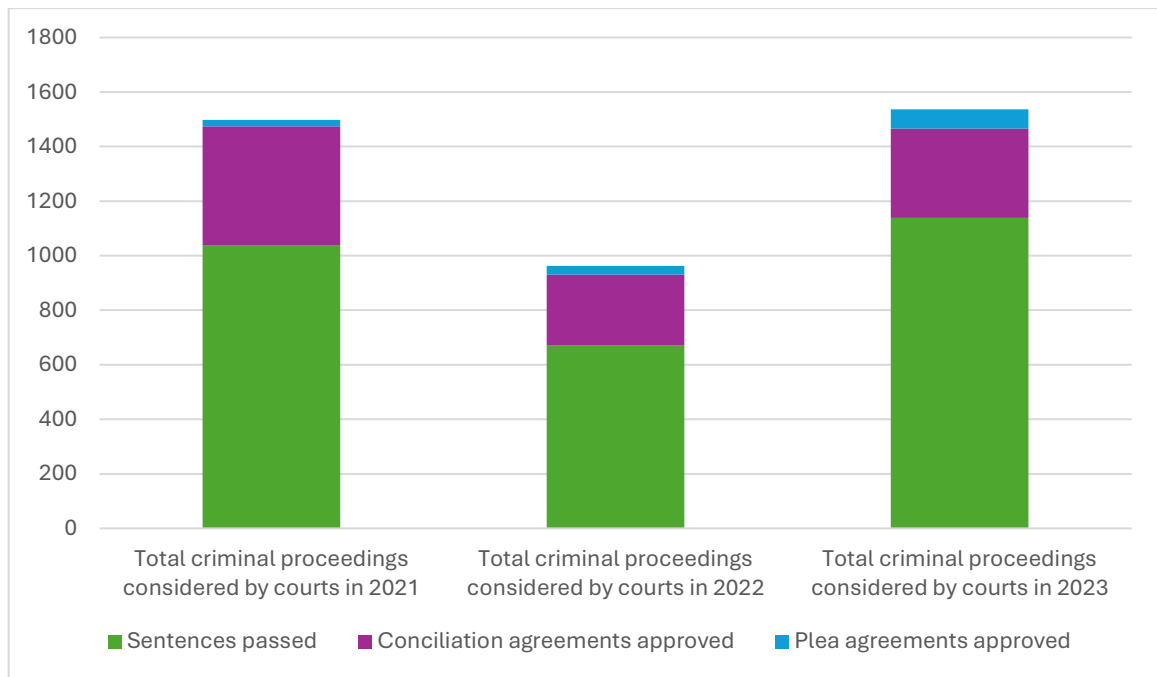


Figure 3. The results of the judicial consideration of criminal proceedings under Art. 126-1 of the CC of Ukraine for 2021–2023.

The data in Figure 3 indicate a significant proportion of conciliation agreements among the total number of criminal proceedings related to domestic violence. This further underscores the importance of protecting the rights of domestic violence victims and the need to establish additional safeguards to prevent the possibility of a victim being pressured by their perpetrator.

The European Court of Human Rights emphasizes the importance of protecting individuals from domestic violence when interpreting Art. 3 of the European Convention on Human Rights (ECHR). In *Valiulienė v. Lithuania* (2013), the Court assessed the facts of the case and found the act of inflicting physical injuries on the applicant five times, combined with her feeling of fear and helplessness, to represent ill treatment of the applicant. The Court noted that the obligation on the State to bring to justice perpetrators of acts contrary to Article 3 of the ECHR serves mainly to ensure that acts of ill treatment do not remain ignored by the relevant authorities and to provide effective protection against acts of ill treatment (*Valiulienė v. Lithuania*, 2013).

The material above discusses *ex parte* and *ex officio* proceedings under Ukrainian legislation, noting that Article 55(1) of the Istanbul Convention is not incorporated into the country's criminal procedure laws. This research emphasizes the necessity of revising the approach to criminal offenses such as physical violence, domestic violence, and sexual violence – including rape – by initiating proceedings even without complaints or statements from victims; that is, they should be excluded from the list of crimes specified in Art. 477(1)(1) of the CPC of Ukraine. The authors of the Shadow Report (EHRAC, 2024) share a similar view. It should be noted that the Shadow Report is posted on the official website of the Council of Europe on the Istanbul Convention as an alternative to the official report of the authorities. Based on the results of this study, a number of amendments to criminal legislation are proposed in order to implement the provisions of the Istanbul Convention. In particular, the authors insist on the necessity of amending the criminal procedure legislation as follows:

- introduce amendments to Art. 477 of the CPC of Ukraine in terms of the removal of crimes provided for in Art. 126-1 (domestic violence), Art. 151-2 (forced marriage), Art. 152(1) (rape without aggravating circumstances), Art. 153(1) (sexual violence), Art. 154 (compulsion to sexual intercourse), and Art. 161(1) (violation of citizens' equality based on their race, ethnicity, or religion without aggravating circumstances) from the list of proceedings for which private criminal proceedings can be carried out;

- append Art. 477 of the CPC of Ukraine with a section stating that private criminal proceedings shall not be carried out in criminal offences provided for in Art. 121, 122, 125, 126, and 126-1 of the CC of Ukraine, as well as other offences stipulated in the CC of Ukraine, in the case of their commission in a family or at the place of residence, or against relatives, or against a former or current spouse, or against another person who resides (or has resided) with the perpetrator as one family but is not (or was not) in a family relationship or married to them (EHRAC, 2024).

Art. 55(2) of the Istanbul Convention stipulates that “any proceedings underway may continue even after a victim has withdrawn her statement of complaint” – a provision that has currently been implemented into the Ukrainian national legislation. Specifically, the withdrawal of a victim’s accusation is not grounds for terminating the proceedings. At the same time, in accordance with the legislation of Ukraine, it is possible to conclude a conciliation agreement in such proceedings. In cases related to domestic violence, such an agreement can be concluded only at the initiative of a victim, or their representative or legal representative. However, the existence of these legislative provisions is the cause of numerous disputes in the legal community.

2.2. Poland

This article further analyzes the procedure for conducting *ex parte* and *ex officio* proceedings in accordance with the Polish legislation. The crime stipulated in Art. 207 of the CC of Poland is a crime prosecuted *ex officio*. The provisions of Art. 304(1)1 of the Criminal Procedure Code of Poland (CPC of Poland) impose a public duty on anyone who becomes aware of the commission of a crime prosecuted *ex officio* – in this case, domestic violence – to report it to a prosecutor or the police. In turn, in accordance with the provisions of Art. 304(2) of the CPC of Poland, public institutions and local self-government authorities which, in connection with their activities (for example, a school, a medical institution, etc.), become aware of the commission of a crime prosecuted *ex officio* are obliged to immediately notify a prosecutor or the police about it and take the necessary measures before the arrival of the authority authorized to carry out criminal prosecution, or before it passes the corresponding order, in order to prevent the destruction of traces and evidence of the crime. This obligation applies to all individuals “who, in connection with the performance of their official or professional duties (for example, a school teacher, teacher, general practitioner), become aware of the suspicion of committing a crime of domestic violence prosecuted *ex officio*.”

Poland has reserved the right not to apply Art. 55(1), in respect of Art. 35 regarding minor offences, exempting it from the obligation to subject minor acts of physical violence against women to *ex officio* investigation and prosecution. The initial reservation for a period of 5 years was renewed for the same period by a declaration of the Polish authorities in January 2021. The explanations provided indicate that the Polish legal framework continues to require a complaint by a victim noting attempts on their bodily integrity for prosecution to begin (Art. 217(3) of the Criminal Code), requiring the upholding of the reservation. It should be added that reservations and declarations play an important role in the Istanbul Convention. So far, almost half of the 45 states (and the European Union) that have signed the Convention have decided to formulate a reservation and/or an interpretative declaration (Burek, 2020).

It should also be noted that, as a consequence of the reservation expressed by Poland as to the Convention, certain petty offences which could fall under Art. 35 of the Convention are not prosecuted by the state, but are handled under private prosecution procedures initiated by victims. This relates in particular to offences involving causing the impairment of a body function or an incapacitating condition which lasts not longer than 7 days (Art. 157 § 2 of the CC of Poland), or hitting or otherwise violating bodily integrity (Art. 217 § 1 of the CC of Poland). Proceedings in such cases may be initiated *ex officio* if, in a prosecutor’s opinion, this is required due to the public interest (Art. 60(1) of the CPC of Poland).

However, as the Commissioner for Human Rights (2020) of the Republic of Poland noted in his Submission to GREVIO, in practice, a prosecutor taking over a private prosecution case is quite rare. In the above matter, it is worth emphasizing that Polish law enshrines the power of the prosecutor to initiate criminal proceedings prosecuted in the form of a private prosecution when, in their opinion, it is required due to the public interest.

In the remainder of the offences listed in Art. 55(1), GREVIO's (2021) Evaluation Report notes, with satisfaction, that ex officio prosecution has been introduced for rape and sexual violence, domestic violence, and forced abortion, and that cases of forced marriage, female genital mutilation, and forced sterilization may also be prosecuted ex officio under general offences.

Consequently, Polish legislation has undergone changes, and proceedings regarding rape and sexual violence, domestic violence, and forced abortion have become ex officio proceedings and do not depend on the filing of a complaint by a victim. Moreover, the relevant authorities are obliged to report to law enforcement officers on the discovery of such a crime. In the author's opinion, such legislative changes indicate the adaptation of legislation in accordance with the requirements of the Istanbul Convention. The imposition of the obligation on the relevant authorities to report a crime indicates active combat against the phenomenon of domestic violence and other forms of violence at the state level.

Conclusion

This article has provided a comprehensive analysis of the law enforcement practice of Poland and Ukraine regarding bringing perpetrators to criminal responsibility for domestic violence. Statistical data from the pretrial investigation authorities and courts in Ukraine and Poland formed the empirical component of this research. On the basis of this analysis, recommendations regarding the interpretation of the relevant numerical indicators obtained from the statistical data of the pretrial investigation authorities were provided. This article represents an interim stage of a more extensive study which not only aims to investigate the current situation, but also focuses on the further state of law enforcement practice regarding the systematic fight against domestic violence throughout the European Union.

Statistical data from pretrial investigation authorities regarding the registration and reporting of criminal proceedings on domestic violence were analyzed (Art. 126-1 of the CC of Ukraine and Art. 207 of the CC of Poland). Based on the comparison of statistical data, it was determined that in Ukraine in the first half of 2022, the number of recorded criminal offenses decreased, which was related to the onset of the full-scale war in Ukraine. According to the statistical data from the police authorities of Poland, gradual growth from 2010 to 2020 with minor fluctuations was established. Based on the comparison of the 2020 data in the two countries, the following conclusion was formed: despite a population of almost 3.5 million more people, the number of registered statements in Ukraine is 18 times less than in Poland. The article also provided explanations for the reasons behind such significant differences, offering suggestions to improve the Ukrainian legislation in terms of bringing to light acts of domestic violence committed in Ukraine.

On the grounds of the analysis of Ukrainian and Polish legislation on the implementation of Art. 55 of the Istanbul Convention regarding "ex parte and ex officio proceedings," significant differences between the legislation of these countries were established. In Poland, these proceedings are investigated ex officio – that is, they do not depend on a victim filing a statement about a criminal offense. Moreover, the criminal procedure legislation of Poland imposes an obligation on the employees of schools and social services to report to law enforcement authorities on the discovery of a crime. Unfortunately, in Ukraine, such proceedings are investigated ex parte – that is, law enforcement authorities can start a pretrial investigation on domestic violence only upon receiving a victim's statement. Even when the pretrial investigation authorities receive a statement from neighbors, teachers, or social workers, this information cannot be included in the Unified Register of Pretrial Investigations before a victim reports on a crime. Thus, the author insists that the Ukrainian legislation should be changed in this regard, and that domestic violence proceedings should be changed from ex parte to ex officio proceedings.

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