

актах обобщения судебной практики по конкретным категориям дел. В этой связи вопрос стандартов доказывания является тем самым «маяком», на который должны ориентироваться суды при применении судебного усмотрения.

Для российской правовой системы внедрение в процессуальную практику стандартов доказывания — тот вектор, по которому будет происходить дальнейшее развитие судебного познания. Стандарты доказывания не находят своего законодательного закрепления и При этом остается открытым вопрос о том, какие именно стандарты доказывания будут разработаны судебной практикой в ближайшей перспективе.

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FOREIGN EXPERIENCE IN PREVENTING DOMESTIC VIOLENCE

Abstract. The article discusses the most effective ways to combat domestic violence, undertaken in different countries of the world, indicates the global and topical nature of this problem. Measures such as the existence of special legislation, criminalization of domestic violence and the introduction of public charges, protective orders, a

system of coordinating public response, correctional programs for aggressors are disclosed. Attention is paid to both measures aimed at protecting victims and measures aimed at working with aggressors, since they also need help. Attention is drawn to the fact that in order to successfully counter domestic violence, coordinated work of all levels of government is necessary.

Key words: law, domestic violence, measure, victim, aggressor.

Domestic violence is a common phenomenon in the Russian Federation, which has been openly discussed relatively recently. However, domestic violence knows no social and geographical boundaries. This problem is relevant not only for Russia, but also for all countries of the world. There are already laws against domestic violence in 146 states. In each of them, various measures are being taken to combat violence, which, as practice shows, are quite effective. Using the experience of foreign countries will help to create similar existing mechanisms in the Russian Federation.

It is necessary to focus on concrete examples of how measures to combat domestic violence work, which have been implemented and are being used in many countries.

One of the most effective measures is the existence of special legislation against domestic violence.

Most countries of the world, including post-Soviet Kyrgyzstan, Moldova, Georgia have legislation on countering domestic violence. These are either separate special laws on domestic violence, or special norms in sectoral legislation that protect victims of domestic violence.

Special laws against domestic violence have proven their effectiveness in the foreign countries, including Moldova and Kyrgyzstan, where cases of domestic violence decreased by a third after the adoption of such laws¹. However, interviews and other studies show that the law alone is not enough to solve the problem of domestic violence. A whole set of measures is needed.

An equally important measure is the criminalization of domestic violence and public prosecution. Practice has shown that the adoption of a special law on domestic violence does not guarantee its criminalization or the transfer of such a crime from the category of a private charge to a public one, if it is provided for by law. Difficulties and resistance to criminalization of domestic violence took place in most of the post-Soviet countries. In Moldova, Kazakhstan, Azerbaijan, Kyrgyzstan, Uzbekistan, Georgia and Latvia, either the criminalization

¹ Харламов В.С. Институт охранного ордера в зарубежном законодательстве как инструмент защиты личности от внутрисемейного насилия // Криминология: Вчера, Сегодня, Завтра. 2014. № 1. С. 37.

of domestic violence was incomplete, or domestic violence remained a category of private and public-private prosecution, despite the existence of special legislation against domestic violence.

For example, in Lithuania, domestic violence until recently fell under the category of private-public charges. After the Council of Europe for Human Rights ruling *Valiuliene v. Lithuania* (No. 33234/07, March 26, 2013) amendments were made to the Criminal Code and the Criminal Procedure Code of Lithuania to align them with the Law against domestic violence adopted in 2011. The amendments concerned the introduction of rules on the mandatory initiation of a preliminary investigation in all cases where signs of domestic violence were found, even in the absence of a complaint on behalf of the victims or a statement on behalf of their representative¹.

The transfer of domestic violence from the category of cases of private and private-public prosecution to the category of cases of public prosecution in criminal legislation is an effective measure of legal protection for victims. Although criminal sanctions alone cannot change the complex set of behaviors that constitute domestic violence², criminal prosecution has a pronounced deterrent effect in terms of the growth of recidivism and the use of violence in the future.

The third important measure to counteract domestic violence is protective orders.

A protective order is a legal document that imposes certain restrictions on the behavior and actions of the perpetrator of ill-treatment. In cases where it is applied, the order is usually issued in order to temporarily remove the aggressor from the house or prohibit him from contacting the victim.

For example, in Canada, when bringing charges related to domestic violence, the courts may provide for a ban on contact with the victim before the trial. Even in cases where the offense has not yet been committed, but there is a risk of harm to health or property, courts may also order the issuance of peace pledges (protective orders), which require a person to keep the peace and behave appropriately for a certain period of time³. In Sweden, the law not only restricts victims from contact with aggressors in cases of need, but also helps women get new documents, housing, provides electronic means of protection or

¹ Council of Europe Commissioner for Human Rights, Report Following Visit to Lithuania from 5 to 9 December 2016. 19 April 2017. P. 4-5.

² Protection, Prevention, Rehabilitation or Justice? Women's Use of the Law to Challenge Domestic Violence / Ruth Lewis, Russell P. Dobash, Rebecca Emerson Dobash and others. *International Review of Victimology*. 2000. P. 181.

³ Family Violence Laws // Department of Justice : [website]. 2019.

bodyguards¹. In the practice of countries such as the Netherlands and Australia, it is allowed for the police to expel persons who commit violence against family members from their homes². Also, the courts may issue temporary orders that may contain a ban on being in the room where the affected family members, including children, live, and even on appearing near this dwelling (the so-called street ban).

In addition to these measures, victims of domestic violence need comprehensive support aimed at ensuring their safety and providing qualified assistance. The common name of this support used in many states is coordinating public response (CPR). The CPR is one of the most effective measures to prevent and protect against domestic violence. CPR implies an interconnected network of services and consultations that is able to comprehensively respond to cases of violence, reduce and eliminate violence in the lives of victims. One part of the system (for example, a lawyer) helps victims to receive services from other parts of the system — a protective order, medical examination, psychological counseling. On the contrary, in an uncoordinated system, the victims themselves must seek help, reducing their chances of getting real support³.

Ideally, this system should consist of 5 elements.

The first element is a single free hotline for victims. Such hotlines can operate both on a limited territory and on the territory of an entire state. For example, in New York, USA, there is a HOPE telephone hotline that operates 24 hours a day and dispatchers speak 10 different languages, including Russian⁴.

The second element is available emergency qualified free assistance, including legal, psychological and medical. The main study on the effectiveness of providing free comprehensive care was conducted by US economists in 2003⁵. They confirmed that the growth of free services provided to victims significantly affected the decline in the number of domestic violence in the 1990s. Legal services had the most significant effect, as they were focused on solving practical issues.

¹ Официальный сайт Швеции на русском языке : [сайт]. 2023.

² Media Statements — Domestic violence arrests rise as new police powers are enforced // Cabinet, Department of the Premier : [website]. 2018.

³ Greeson MR, Campbell R. Sexual Assault Response Teams (SARTs): An Empirical Review of Their Effectiveness and Challenges to Successful Implementation // Trauma, Violence, & Abuse. 2013.

⁴ HOPE worldwide : [website]. 2022.

⁵ Amy Farmer, Jill Tiefenthaler. Explaining the Recent Decline in Domestic Violence // Contemporary Economic Policy. 2003.

The third element is a system of shelters and crisis centers. Such shelters are extremely useful when victims have nowhere to go or cannot leave their place of residence. It is very important that such centers are easily accessible, and their number is sufficient for the safe accommodation of victims. Informing the population about the functioning of such centers also plays an important role, since many victims do not even know about their existence. For example, in Kyrgyzstan, thanks to informing the population, more and more people affected by domestic violence turn to crisis centers with every year. So, in 2019, about 6.7 thousand people applied to crisis centers, and in 2020 the number of applicants increased significantly — it became more than 9.6 thousand¹.

The fourth element of the CRR is the increased responsibility of law enforcement agencies in the conduct of cases of domestic violence. These are special legislative norms and procedures that allow law enforcement officers to be held accountable for improper performance of their duties in responding to and investigating cases related to domestic violence. For example, in the UK in November 2018, the state introduced a system of police supervisory complaints², which allows certain organizations to raise questions on behalf of the public about harmful patterns or trends in policing.

And the last element is to support the process of reintegration of victims. Reintegration measures are implemented by increasing economic independence and preserving the economic potential of victims. It has been proven that the more victims of domestic violence become able to support themselves, the higher the probability that they will come out of violent relationships³⁴. For example, in Kyrgyzstan, association of crisis centers offers knowledge and skills development programs for the victims who are in them⁵. The purpose of these programs is to provide an opportunity to find a job and live an independent life after they leave the shelter.

However, assistance is needed not only for victims, but also for aggressors. Correctional programs are provided as such this assistance, which many states use. These programs help offenders realize that the use of any violence is unac-

¹ Иманалиева А. «Помощь тысячам женщин». Пять фактов про кризисные центры в Кыргызстане // Новости Казахстана, новости мира : [сайт]. 2021.

² Police super-complaints // GOV.UK : [website]. 2018.

³ Stark E., Buzawa E. S. Violence against women in families and relationships : victimization and the community response // Praeger Perspectives. 2009. P. 208.

⁴ Daley Pagelow M. Woman-battering : victims and their experiences // Beverly Hills ; London : SAGE Publications. 1981. P. 164.

⁵ Ассоциация кризисных центров в Кыргызстане — Мы против насилия! : [сайт]. 2023.

ceptable. Such programs can be created not only by government agencies, but they must be controlled by them by monitoring the quality of training and the behavior of participants. Without quality control of training and without subsequent monitoring of the behavior of their participants, correctional programs become only a legitimate way to avoid responsibility and make it possible to continue manipulating victims, that is, they allow circumventing the law. In the USA, for example, there are about one and a half thousand similar programs — and not only voluntary ones. According to American law, persons who have committed violence for the first time must attend rehabilitation forcibly¹. In our opinion, the passage of such programs should be carried out on a voluntary basis, since a person can change only when he really wants to.

The presented measures to counter domestic violence prove their effectiveness in the countries, whose examples we have given in the work, including post-Soviet Moldova and Kyrgyzstan, which are close to Russia in terms of political and legal systems. As a result of the implementation of a balanced comprehensive policy and programs to counter domestic violence at all levels of legislative, executive and judicial authorities, the tasks of combating domestic violence are being successfully solved. If we take into account the experience and lessons of other countries, Russian Federation will be in an advantageous position — it will not have to pave this road itself.

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¹ Иванова Т. Как и зачем психологи работают с абьюзерами // *Psychologies.ru* : [сайт]. 2023.