

### References

1. Zabuga A. V., Nikolaychuk T. V. On the features of the criminal investigation of signatures made by persons of the elderly and senile age. *Armenian Journal of Forensic Expertise and Criminalistics*. 2021. No. 5. P. 109—118.
2. Nikolaychuk T. V. The main factors that change handwriting. *Forensics and forensic examination*. 2013. Is. 58 (2). P. 222—224.
3. Nikolaychuk T. V., Solomakha Yu. V. Regarding the solution of diagnostic problems in the study of manuscripts made with an unusual pen. *Collection of materials of the international scientific and practical conference dedicated to the 90th anniversary of the birth of L. Yu. Arotsker "Arotsker Readings"*. 2017. P. 80—81.

## On the issue of the legal qualification of offenses related to domestic violence

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*Theses are devoted to the issue of legal qualification of the plurality of crimes that have characteristics of domestic violence, considering the results of forensic examinations.*

*Keywords: domestic violence; forensic examination; forensic psychiatric examination; legal qualification of crimes.*

### До питання кваліфікації правопорушень, пов'язаних із домашнім насильством

**Антон Полянський, Юлія Шпак**

*Тези присвячено питанню правової кваліфікації сукупності злочинів, що мають ознаки домашнього насильства, з урахуванням результатів судово-медичних експертиз.*

*Ключові слова: домашнє насильство; судово-медична експертиза; судово-психіатрична експертиза; правова кваліфікація злочинів.*

Domestic violence is a social issue that affects individuals, families and the communities in which they live, the coverage of which is currently dimmed by the daily news of the Russian Federation's military aggression. In addition to the usual issues of consideration of proceedings on domestic violence, there are also a number of issues regarding the legal qualification of crimes and the assignment and conduct of forensic examinations in the investigation of correspondent offenses.

To consider issues regarding the legal qualification of crimes and the assignment of experts in cases of domestic violence, it is necessary, first of all, to refer to the normative regulation of responsibility for it. The basis of Ukrainian legislation on combating domestic violence is the Law of Ukraine "On Prevention and Combat Against Domestic Violence" dated December 7, 2017 No. 2229-VIII.

The Law of Ukraine "On Prevention and Combating Domestic Violence" defines the following concepts:

domestic violence — acts (actions or inaction) of physical, sexual, psychological or economic violence committed in the family or within the limits of the place of residence or between relatives, or between former or current spouses, or between other persons who live together (lived) in the same family, but are not (were not) in a family relationship or married to each other, regardless of whether the person who committed domestic violence lives (lived) in the same place as the victim, and as well as threats to commit such acts [1].

Such a definition lists the subjects and victims of domestic violence, although the lack of interpretation is the lack of a definition of the concept of "violence", which is already expressed in the disclosure of the content of the forms of domestic violence, and therefore has a more evaluative nature, however, the specified law lists the forms of domestic violence and provided definitions specifying the subjects of offenses and victims.

International standards are vastly important in the field of domestic violence. UN documents in the field of preventing and combating violence against women and domestic violence, which have binding legal force, include the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979) [2] and the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention, 2011) [3].

Regarding the assignment of forensic examinations in the investigation of crimes related to domestic violence, in accordance with the order of the appointment of forensic examinations, it is general and fixed in part 1 of Art. 242 of the Criminal Procedure Code of Ukraine: the examination is carried out by an expert institution, an expert or experts who are involved by the parties to the criminal proceedings or the investigating judge at the request of the defense party, if special knowledge is required to clarify the circumstances relevant to the criminal proceedings. The grounds for the mandatory assignment of a forensic examination are specified in Part 2 of Art. 242 of the Criminal Procedure Code of Ukraine, namely: establishing the causes of death; determination of severity and nature of bodily injuries; determining the mental state of the suspect in the presence of information that raises doubts about his/her sanity, limited sanity; establishing the age of a person, if it is necessary to resolve the issue of the possibility of bringing him/her to criminal responsibility, and it is impossible to obtain this information in another way; determination of the amount of material damages, if the victim cannot determine them and has not provided a document confirming the amount of such damage, the amount of non-property damage, damage to the environment caused by a criminal offense [4].

The type of examination assigned depends on the form of the objective offense. To determine them, it is necessary to refer to Art. 126-1 of the Criminal Code of Ukraine: domestic violence, i.e. intentional systematic perpetration of physical, psychological or economic violence against a spouse or ex-spouse or another person with whom the perpetrator is (was) in a family or close relationship, which leads to physical or psychological suffering, health disorders, loss of ability to work, emotional dependence or deterioration of the victim's quality of life [5]. That is, four main forms are distinguished: economic, psychological, sexual and physical violence. These forms are detailed by the provisions of the Law of

Ukraine "On Prevention and Combating Domestic Violence" and are not exhaustive.

Some researchers point out that the practice of assigning a forensic medical examination is the most common during the investigation of domestic violence, and it is of decisive importance in some criminal proceedings, since the qualification of offenses largely depends on the results of the investigation and can lead to qualification under other articles of the Criminal Code of Ukraine, for example, Art. Art. 115, 121, 122, 125, 126 of the Criminal Code of Ukraine [6].

Other types of forensic examination, which are perhaps less common, are forensic psychological examination or psychiatric examination, which involve the activity of an expert during his research based on special knowledge in the relevant field in order to provide a conclusion [7]. There is an opinion that the majority of offenses that can be classified as domestic violence are committed by persons under the influence of alcohol or drugs, as well as by persons registered in narcologic and psychiatric establishments in connection with mental and behavioral disorders due to the use of psychoactive substances [8]. Based on the above, the qualification of actions or inactions related to domestic violence may also require additional qualifications under Art. Art. 307, 309, 311, 312, 313, 314, 315, 323, 324 of the Criminal Code of Ukraine.

Determining the limits of the competence of a forensic psychiatrist and an expert psychologist is considered a debatable issue, and in order to specify the qualification of criminal offenses, it can be considered appropriate to appoint a complex psychological and psychiatric examination.

Particular attention should be paid to studies using the polygraph, which, although not particularly popular, and the results of a forensic psychophysiological examination with the use of a polygraph are not considered absolutely reliable and a basis for changing criminal legal qualifications. E.g., conducting such examinations during the investigation of criminal offenses is appropriate for obtaining mainly indicative information [9]. Some scientists are less skeptical about the use of the polygraph and believe that ignoring or not using modern scientific and technical means in the pre-trial investigation, one of which is the polygraph, means depriving the criminal justice system of proper, effective and timely investigation of crimes [10].

Thus, it is considered appropriate to study the possibilities of conducting complex forensic

examinations to solve tasks related to the qualification of acts containing signs of domestic violence.

#### References

1. The Law of Ukraine "On Prevention and Combating Domestic Violence" 07.12.2017 № 2229-VIII. URL: <https://zakon.rada.gov.ua/laws/show/2229-19#Text> (date accessed: 01.03.2023).
2. Convention on the Elimination of all Forms of Discrimination Against Women 18.12.1979. URL: [https://zakon.rada.gov.ua/laws/show/995\\_207#-Text](https://zakon.rada.gov.ua/laws/show/995_207#-Text) (date accessed: 01.03.2023).
3. Council of Europe Convention on preventing and combating violence against women and domestic violence; Istanbul Convention 11.05.2011. URL: [https://zakon.rada.gov.ua/laws/show/994\\_001-11#Text](https://zakon.rada.gov.ua/laws/show/994_001-11#Text) (date accessed: 01.03.2023).
4. Criminal Procedure Code of Ukraine of 13.04.2012 № 4651-VI. URL: <https://zakon.rada.gov.ua/laws/show/4651-17#top> (date accessed: 01.03.2023).
5. Criminal Code of Ukraine of 05.04.2001 № 2341-III. URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 01.03.2023).
6. The judicial expertise to be appointed in the investigation of domestic violence: an analytical review. *Herald of Zaporizhzhia National University. Jurisprudence*. 2020. № 1. Pp. 238—244. DOI: 10.26661/2616-9444-2020-1-37 (date accessed: 01.03.2023).
7. Forensic psychiatry and forensic psychiatric examination: textbook / I. M. Grigus et al. Lviv, 2019. 119 p.
8. Motlyakh O. I., Ishchenko T.V. Specifics of appointment of forensic psychiatric examinations in the investigation of domestic violence. *Comparative and analytical law*. 2020. № 2. URL: <https://dSPACE.uzhnu.edu.ua/jspui/handle/lib/35563> (date accessed: 01.03.2023).
9. Moiseeva T. F. Problems of polygraph use in judicial examination / On actual issues of forensic and technical forensic support for the disclosure and investigation of crimes, materials of International. science and practice conf. Kyiv, 2010. Pp. 24—27.
10. Motlyakh O. I. Effectiveness of the use of the polygraph in the investigation of crimes of the past years. *Comparative and analytical law*. 2014. № 8. Pp. 208—211.

## Investigation of accidents at work through judicial expertise in the Republic of Moldova

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*This article focuses on the subject of judicial expertise of occupational safety techniques in the Republic of Moldova. The research starts from the analysis of the legal regulations in the field of occupational safety with the elucidation of the notion of work accident, continuing with the identification of its main characteristics that defines it as a work accident. At the same time, are investigated and explained, the legal procedural conditions for the appointment of a judicial occupational safety expert and some basic peculiarities of its performance.*

*Keywords: occupational safety and health, work accident, special knowledge, judicial expertise, normative acts.*