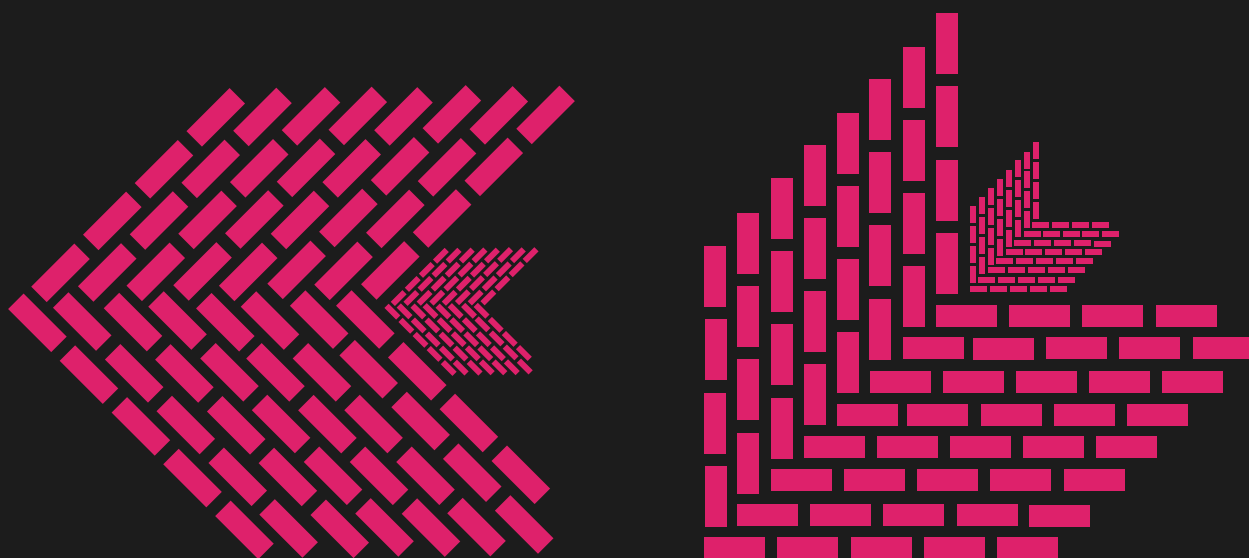




Kingdom of the Netherlands

DCAF Geneva Centre
for Security Sector
Governance

ANALYTICAL
CENTER
JURFEM



UNDERSTANDING HOW GBV CAPACITY-BUILDING IN «PEACETIME» **HAS** **IMPACTS** DURING WAR

A research project carried out by the Analytical Center JurFem

2024

About JurFem

Ukrainian Women Lawyers Association “JurFem” is one of the first Ukrainian associations of women lawyers. The aim of the organization is to become a platform for the exchange of experience, development and support of women in the legal profession. And with the start of full-scale war, JurFem became a place of support for survivors of sexual violence and all kinds of gender discrimination. More than 300 representatives of the legal profession are members of the Association: female lawyers, student lawyers, scientists, teachers, and law enforcement officers.

Ukrainian Women Lawyers Association “JurFem” was officially registered in September 2017.

The Analytical Center JurFem is a department of the UWLA. The main aim of the Analytical Center JurFem is conducting research on the adherence to the principles of gender equality and non-discrimination on the basis of sex in public authorities activities. The Analytical Center provides expert support for institutional changes in Ukraine.

About DCAF

DCAF – Geneva Centre for Security Sector Governance is dedicated to improving the security of states and their people within a framework of democratic governance, the rule of law, respect for human rights, and gender equality. Since its founding in 2000, DCAF has contributed to making peace and development more sustainable by assisting partner states, and international actors supporting these states, to improve the governance of their security sector through inclusive and participatory reforms. It creates innovative knowledge products, promotes norms and good practices, provides legal and policy advice and supports capacity-building of both state and non-state security sector stakeholders.

About the project

As part of a multi-year Strategic Partnership between the Netherlands` Ministry of Foreign Affairs and DCAF, the Enhancing SSG/R Policy & Practice project forms an innovative instrument allowing both DCAF and the MFA to regularly identify and explore emerging issues of relevance to SSG/R (e.g. climate security, hybrid security dynamics, and trauma-informed approaches to reform) while concurrently strengthening DCAF's capacity as a knowledge partner. As part of this project, DCAF is conducting research to better understand current practices and challenges in CRSV response, while critically examining assumptions about the impacts of gender-focused SSR interventions on preventing and responding to gender-based violence (GBV). Key outputs of the project include two country-specific reports on CRSV response in Ukraine and Mali and a third report aimed at international audiences synthesizing the findings from Mali and Ukraine and presenting analysis and recommendations related to SSR and WPS programming.

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Disclaimer

The opinions expressed in this publication are those of the authors alone and do not reflect the opinions or views of DCAF – Geneva Centre for Security Sector Governance.

Acknowledgments

Authors:

Khrystyna Kit, Lawyer, Candidate of Legal Sciences, Chairperson of the Ukrainian Women Lawyers Association “JurFem”

Kateryna Shunevych, PhD in Law, Head of the Analytical Center JurFem

Daria Rosokhata, Lawyer and Analyst of the Analytical Center JurFem

Yaryna Bushchak, Lawyer and Analyst of the Analytical Center JurFem

Publisher

JurFem – Ukrainian Women Lawyers Association
Lviv, Ukraine
Tel: +380676172002
office@jurfem.com.ua
www.jurfem.com.ua

In collaboration with

DCAF - Geneva Centre for Security Sector Governance
Maison de la Paix
Chemin Eugène-Rigot 2E
CH-1202 Geneva, Switzerland
Tel: +41 22 730 94 00
info@dcaf.ch
www.dcaf.ch
Twitter @DCAF_Geneva

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LIST OF USED ABBREVIATIONS

CCU	- Criminal Code of Ukraine
CPC	- Criminal Procedure Code of Ukraine
CRSV	- conflict-related sexual violence
CSO	- civil society organizations
DCAF	- Geneva Centre for Security Sector Governance
EU	- European Union
GBV	- gender-based violence
ICC	- International Criminal Court
NGO	- non-governmental organization
NSJU	- National School of Judges of Ukraine
OPG	- Office of the Prosecutor General
PTCU	- Prosecutors' Training Center of Ukraine
SSR	- security sector reform
UN Women	- The United Nations Entity for Gender Equality and the Empowerment of Women
UNSCR	- United Nations Security Council resolution
WPS	- Women, Peace and Security Agenda

INTRODUCTION

This report analyses the impact of previous activities designed to strengthen key actors in the prevention of and response to cases of gender-based violence (GBV) and the development of policies and practices in responding to cases of conflict-related sexual violence (CRSV), the recorded number of which has been increasing¹ every day since the beginning of the full-scale Russian invasion of Ukraine. In particular, it is important to know whether the policies and practices developed for GBV are applied to CRSV responses; whether the actors engaged in combating GBV have an influence on the response to CRSV; and whether an understanding of the forms, dynamics and root causes of gender inequality is applicable to CRSV. The focus of the study was the experience of the justice sector bodies, namely the National School of Judges of Ukraine, the Prosecutor's Training Center of Ukraine and the Office of the Prosecutor General, as key actors in developing national-level policies for responding to GBV and CRSV². Representatives of the NGO La Strada-Ukraine, the EU project PRAVO-Justice and UN Women,

as well as lawyers at the legal assistance line JurFem:support who handle GBV and CRSV cases, were involved in the study of the impact of these policies and their implementation.

The study included **three main tasks**:

- Based on the results of this study, identify factors that facilitate or hinder the transformation and/or adaptation of GBV-related capacity-building initiatives which were developed and implemented before the full-scale invasion into an effective response to the challenges that arose after 24 February 2022 with the escalation of violence.
- Provide evidence-based recommendations to strengthen institutional capacity-building within security sector reform (SSR) and Women, Peace, and Security (WPS) programmes, enhancing protection and preventing adverse impacts. Identify lessons learned to inform SSR policy, guidance and programming, with a particular focus on improving the conceptualization of the WPS Agenda for prevention and protection.

Methodology. The study was conducted by a review and comprehensive analysis of the regulatory and empirical environment. Its normative basis is the national legislation of Ukraine (laws and subordinate legal acts) in the

¹ Joint statement in observance of the International Day for the Elimination of Violence against Women on 25 November, and the accompanying 16 Days of Activism against Gender-Based Violence (Delegation of the European Union to Ukraine, 2022), https://www.eeas.europa.eu/delegations/ukraine/“-awareness-accountability-end-gender-based-violence-now“-ukraine_en?s=232

² In the Ukrainian context, the distinction between GBV and CRSV is crucial. Under Ukrainian law, CRSV is defined by Article 438 of the Criminal Code of Ukraine as a violation of the laws and customs of war, categorized as war crimes. In contrast, GBV offences are outlined in Chapter IV of the Criminal Code, covering crimes against sexual freedom and personal integrity (e.g. Articles 152–156-1), as well as domestic violence (Article 126-1). The lack of specific mention of CRSV in Article 438 often leads to misclassification of offences under Articles 152 or 153 instead of Article 438, which can result in lighter sanctions or improper legal responses. Furthermore, private prosecution rules under

Article 477 of the Criminal Procedure Code complicate proceedings related to GBV, unlike mandatory proceedings under Article 438. This legal ambiguity has been noted in high-profile cases, raising concerns about the correct classification and prosecution of such crimes.

field of combating domestic violence, GBV and CRSV. The empirical basis of the research is material from analytical reports and statistics, plans and state strategies in this field, information from the official websites of the government and ministries, international organizations and their entities (UN Women, etc.), public information received in response to requests from executive authorities of Ukraine and the results of interviews conducted as part of the study. The interview method was used to provide a comprehensive analysis of the present situation in the field of preventing and combating GBV and CRSV, as well as to identify current challenges.

Interviews were conducted with participants and coordinators of previous DCAF activities and projects on GBV and strengthening institutional capacity in the administration of justice. Representatives of the Office of the Prosecutor General, the Prosecutor's Training Center of Ukraine, lawyers and experts from civil society organizations who are actively involved in the formation and implementation of state policies in the field of combating GBV and CRSV also participated in the interviewing process.

It is worth noting the potential **limitations of the study**. Firstly, since a significant number of DCAF projects were implemented back in 2019–2020, as of August 2024 impressions of training, memories of process organization, notes on challenges that existed at the time of project implementation, etc. may be reproduced only partially, not providing the full range of information requested. Secondly, a challenge in conducting interviews was staff turnover in institutions or organizations, which resulted in the loss of valuable information about the implementation of individual projects and informal data related to training and the possibility of applying the knowledge gained after the start of the full-scale invasion.

CHAPTER I.

CAPACITY-BUILDING IN UKRAINE'S JUSTICE SECTOR

Analysis of capacity-building in Ukraine's justice sector in responding to cases of GBV and CRSV, 2017–2022, with a focus on previous DCAF project activities in Ukraine.³

I. National legislation in the field of preventing and combating GBV

On 7 November 2011, Ukraine signed the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention⁴). In June 2017, by a resolution of the Cabinet of Ministers of Ukraine, the regulation on the Government

Commissioner for Gender Policy⁵ was approved.

On 6 December 2017, the criminal legislation was significantly reformed in order to implement the provisions of the Istanbul Convention. Thus, for the first time, a mandatory element of sexual crimes – the absence of “voluntary consent” – was introduced into the national legislation⁶. The adoption of the Law of Ukraine “On Preventing and Combating Domestic Violence”⁷ on 7 December 2017 was also of great importance.

³ Projects: Support to Justice Related Reforms in Ukraine (PRAVO-Justice) (December 2017–December 2020); EU Project “PRAVO-Justice” (implementation partners DCAF and La Strada-Ukraine), an analysis of the justice system's response to domestic violence and violence against women as of 2018 and comparison of the results with selected elements of the 2017 survey.

⁴ Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention, 2011), <https://www.coe.int/en/web/gender-matters/council-of-europe-convention-on-preventing-and-combating-violence-against-women-and-domestic-violence>

⁵ Regulation on the Government Commissioner for Gender Policy, No. 390 (Cabinet of Ministers of Ukraine, Kyiv, 17 March 2017), <https://zakon.rada.gov.ua/laws/show/390-2017-n#Text>

⁶ Criminal Code of Ukraine, No. 2341-III (Verkhovna Rada of Ukraine, Kyiv, 5 April 2001), <https://zakon.rada.gov.ua/laws/show/en/2341-14#Text>

⁷ Law of Ukraine “On Preventing and Combating Domestic Violence”, No. 2229-VIII (Verkhovna Rada of Ukraine, Kyiv, 7 December 2017), <https://zakon.rada.gov.ua/laws/show/2229-19#Text>

The Procedure for the interaction of entities implementing measures in the field of preventing and combating domestic violence and gender-based violence⁸ was approved at the national level on 22 August 2018. This procedure provides that the coordination of measures in preventing and combating domestic violence and GBV and monitoring their implementation at the local level shall be carried out by authorized persons (coordinators) in the executive power bodies and local self-government bodies, which are entrusted with the functions of ensuring equal rights and opportunities for women and men and preventing and combating GBV.

Public organizations initiated an electronic petition calling for the ratification of the Istanbul Convention on preventing and combating violence against women and domestic violence in early 2020. This petition gained 25,000 signatures by citizens. Consequently, the President of Ukraine signed Decree No. 398/202 “On urgent measures to prevent and combat domestic violence, gender-based violence, and protect the rights of survivors of such violence”⁹, which was the result of the joint work of the Office of the President of Ukraine, the government, public organizations and international experts.

These legislative acts laid the basis for implementing most of the provisions of the Istanbul Convention and determined the main legislative and social developments for further implementation of its provisions. On 20 June 2022, Ukraine ratified the Istanbul Convention¹⁰

with reservations, which entered into force on 1 November 2022.

II. Policies regarding gender-based violence in ensuring justice.

State Strategy for Ensuring Equal Rights and Opportunities for Women and Men until 2030. On 12 August 2022, the government approved the State Strategy for Ensuring Equal Rights and Opportunities for Women and Men until 2030¹¹ and approved the operational plan for its implementation for 2022–2024. This is a comprehensive strategic instrument that determines the priority directions of consolidated actions of central and local executive authorities, local self-government bodies, civil society organizations and business entities to reduce gender inequality in all areas of society. One of the goals of the state strategy is effective counteraction of all forms of violence, including CRSV. It is expected that, based on the results of implementing the measures envisaged by the state strategy, an effective and accessible arrangement for responding to cases of gender-based discrimination and violence will be created. This will include establishing a data collection system for legal aid recipients (recording distribution by gender, age, place of residence in urban and rural areas, disability status and other signs of vulnerability). The proportion of women, especially those from vulnerable groups, who successfully defend their rights by accessing free legal aid (both primary and secondary) at centres offering such services is expected to increase.

⁸ Law of Ukraine “On Ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence”, No. 2319-IX (Verkhovna Rada of Ukraine, Kyiv, 20 June 2022), <https://zakon.rada.gov.ua/laws/show/2319-20#Text>

⁹ Decree “On urgent measures to prevent and combat domestic violence, gender-based violence, and protect the rights of survivors of such violence”, No. 398/202 (President of Ukraine, Kyiv, 21 September 2020), <https://www.president.gov.ua/documents/3982020-35069>

¹⁰ Procedure for the interaction of entities implementing measures in the field of preventing and combating domestic violence and gender-based violence, No. 658 (Cabinet of Ministers of Ukraine, Kyiv, 22 August 2018), <https://zakon.rada.gov.ua/laws/show/658-2018-n#Text>

¹¹ “The Government approves the State Strategy for Ensuring Equal Rights and Opportunities for Women and Men until 2030” (Office of the Government Commissioner for Gender Policy, 12 August 2022), <https://www.kmu.gov.ua/news/uriadom-skhaleno-derzhavnu-stratehiu-zabezpechennia-rivnykh-prav-ta-mozhlyvostei-zhinok-i-cholovikiv-na-period-do-2030-roku>

* **National Action Plan for the Implementation of UN Security Council Resolution 1325 on Women, Peace and Security until 2025.** On 28 October 2020, by Order of the Cabinet of Ministers of Ukraine No. 1544, the National Action Plan for the Implementation of UN Security Council Resolution 1325 on Women, Peace and Security until 2025¹² was approved; this has already been amended as of 16 December 2022 in connection with the full-scale Russian invasion of Ukraine. The National Action Plan emphasizes the biggest problems associated with combating and responding to GBV (including CRSV) as being a lack of knowledge and skills of National Action Plan implementers (including entities ensuring justice), and limited human and material resources and technical support.

* **National Strategy in the Field of Human Rights.** The National Strategy In The Field of Human Rights¹³ was approved to direct the state's activities regarding the establishment and ensuring of human rights and freedoms, the creation of effective arrangements for their implementation and protection, and the solution of systemic problems in this area. One of its strategic areas is **preventing and combating GBV**. The strategy envisages achieving this goal by, inter alia, making Ukrainian legislation on combating GBV compliant with international standards; creating conditions for preventing and combating all forms of GBV, in particular violence and sexual harassment in the workplace, CRSV, sexual exploitation and GBV by law enforcement officers; and ensuring effective investigation of criminal offences related to GBV, in particular those committed on the temporarily occupied territory of Ukraine.

¹² National Action Plan for the Implementation of UN Security Council Resolution 1325 on Women, Peace and Security until 2025 (Cabinet of Ministers of Ukraine, Kyiv, 28 October 2020), <https://zakon.rada.gov.ua/laws/show/1544-2020-p#Text>

¹³ Order of the President of Ukraine "On the National Strategy in the Field of Human Rights", No. 119/2021 (Kyiv, 24 March 2021), <https://zakon.rada.gov.ua/laws/show/119/2021#Text>

* **National Strategy for Reforming the Child Justice System until 2023.** The National Strategy for Reforming the Juvenile Justice System until 2023 (approved by Order of the Cabinet of Ministers of Ukraine No. 1027-p¹⁴) of 18 December 2018) is aimed at solving the main systemic problems of juvenile justice, overcoming gaps in the system of interagency cooperation and ensuring preventive, social and educational work. It includes efforts towards the resocialization of minors who are prone to illegal behaviour and have committed offences, as well as strengthening protection of the rights of children who are affected by or witness offences, in particular those of a violent nature.

III. Key actors in the development and implementation of policies in the field of GBV: Their roles and efforts

Entities responding to GBV

The list of entities responding to GBV and providing assistance to its survivors, which is enshrined in Article 7-1 of the Law of Ukraine "On Ensuring Equal Rights and Opportunities for Women and Men"¹⁵ and the Procedure for Interaction of Entities Carrying Out Activities in the Field of Preventing and Combating Domestic Violence and Gender-Based Violence¹⁶ (approved by Resolution of the Cabinet of Ministers of Ukraine No. 658 of 22 August 2018), includes:

¹⁴ National Strategy for Reforming the Child Justice System until 2023 (Cabinet of Ministers of Ukraine, Kyiv, 18 December 2018), <https://zakon.rada.gov.ua/laws/show/1027-2018-p#n8>

¹⁵ Law of Ukraine "On Ensuring Equal Rights and Opportunities for Women and Men", No. 2866-IV, (Verkhovna Rada of Ukraine, Kyiv, 3 August 2023), <https://zakon.rada.gov.ua/laws/show/2866-15#Text>

¹⁶ The Procedure for Interaction of Entities Carrying Out Activities in the Field of Preventing and Combating Domestic Violence and Gender-Based Violence (Cabinet of Ministers of Ukraine, Kyiv, 22 August 2018), <https://zakon.rada.gov.ua/laws/show/658-2018-n#Text>

- the Ministry of Social Policy as a specially authorized central body of the executive power for ensuring equal rights and opportunities for women and men;
- competent units of the National Police and other executive authorities, including local state administrations;
- centres for providing free legal aid, including secondary legal aid;
- national courts and prosecutors' offices;
- general and specialized support services for survivors, such as shelters, mobile teams for social and psychological assistance, centres of social services for families, children and youth, medical institutions and centres for medical and social rehabilitation of survivors of GBV.

In view of the focus and subject of the research, this report concentrates on analysis of the activities and capabilities of individual entities that ensure justice.

01 Ministry of Internal Affairs of Ukraine

- * **Powers.** Articles 7 and 10 of the Law of Ukraine “On Preventing and Combating Domestic Violence”¹⁷ clearly determine the powers of the **Ministry of Internal Affairs of Ukraine** and authorized units of the **National Police of Ukraine** in this field.
- * **Formation of a special unit in the field of combating GBV.** The police network for combating domestic violence – POLINA – has been operating since 2017; as of 2021, 86 mobile brigades were working throughout Ukraine¹⁸ as

domestic violence response teams. Where there are no mobile groups, patrol and community police officers visit the scene.

In 2023, to organize the work properly, the department created 54 specialized units for combating domestic violence, in which 62 mobile response groups operate. These groups respond to cases of domestic violence: police officers issue urgent restraining orders, write administrative offence reports and conduct preventive conversations with offenders. Law enforcement officers monitor compliance with the requirements of measures¹⁹ to restrict the rights of offenders temporarily, and carry out joint preventive raids with social services in families where domestic violence is committed. However, the number of mobile teams is insufficient to respond adequately to all cases of domestic violence.

- * **Strengthening capacity to respond effectively to cases of GBV.** In 2020, the Ministry of Internal Affairs developed a chatbot, @police_helpbot, which operates in Telegram Messenger and accumulates all the necessary information²⁰ about domestic violence for a quick, accessible and operative response. The chatbot can help call emergency services (police and ambulance); explain what domestic violence is and how to counteract it; explain the powers of bodies and institutions that carry out measures to prevent domestic violence; provide contacts for other assistance services; and refer survivors to free legal aid specialists who will provide legal advice online.

¹⁷ Law of Ukraine “On Preventing and Combating Domestic Violence”, No. 2229-VIII (Verkhovna Rada of Ukraine, Kyiv, 7 December 2017), <https://zakon.rada.gov.ua/laws/show/2229-19#n98>

¹⁸ Ekaterina Pavlichenko, “Overcoming domestic violence is a priority for the Ministry of Internal Affairs” (Ministry of Internal Affairs, 29 October 2021), <https://mvs.gov.ua/en/press-center/news/podolannya-domasnyogo-nasilstva-ce-prioritetne-zavdannya-dlya-mvs-katarina-pavlichenko>

¹⁹ “The National Police has 54 specialized units to combat domestic violence” (National Police of Ukraine, 30 November 2023), <https://www.kmu.gov.ua/news/v-natspolitsii-pratsuiut-54-spetsializovani-pidrozdily-protydii-domashnomu-nasilstvu>

²⁰ “Authorities join forces to prevent and combat domestic violence” (Ministry of Social Policy of Ukraine, 5 May 2020), <https://www.kmu.gov.ua/news/obiednuemo-zusillya-vsikh-organiv-vladi-shchob-zapobigti-ta-protidiyati-domashnomu-nasilstvu>

- * **Advanced training.** To comply properly with current legislation on preventing and combating domestic violence and GBV and fulfil all the tasks, it is necessary to provide adequate staffing of specially authorized entities at both state and local levels, and increase the level of professional development of specialists in this field. Thus the educational institutions of the Ministry of Internal Affairs of Ukraine provide initial professional training and advanced training for police officers. Also, a number of actors engaged in combating domestic and sexual violence are taught as part of bachelor's and master's degree programmes.

02 Prosecutor General's Office of Ukraine (Office of the Prosecutor General from January 2020)

- * **Formation of a special unit in the field of combating GBV.** In 2020, the Department for the Protection of Children's Interests and Combating Domestic Violence was established in the Office of the Prosecutor General (OPG), which contributed to the implementation of an integrated approach in combating and responding to GBV and fighting violations of children's rights.

On 14 September 2023, the Prosecutor General issued an order approving the "Regulations on the Department for the Protection of Children's Interests and Combating Domestic Violence of the Office of the Prosecutor General". With this, the OPG began moving towards specialist prosecutors, and as of today juvenile prosecutors also handle criminal offences related to domestic violence. A similar specialization was introduced in the OPG Department for War Crimes regarding crimes related to CRSV.

However, when it comes to ordinary sexual violence crimes that are not related to domestic violence or do not involve children, such specialization is absent in the prosecution bodies.

Anna Sosonska, head of the CRSV Crimes Division of the OPG, founded in 2022, shared

information about the importance of awareness of GBV when investigating CRSV cases:

[As of] the end of September 2022, mobile groups were formed and began documenting the first cases of CRSV. They began to reveal facts that could not be attributed to CRSV, but something clearly indicated that the choice of victims was not random (families of Ukrainian servicemen), because [Russian combatants] choose [as a victim] mainly a woman, not a man. For instance, in one case Russian investigator had a conversation with her [a mother of Ukrainian soldier] saying that she is a mother, that her son should return, not fight against the «brotherly people». The pattern for Russians is committing gender-based violence. Their goal is to terrorize women, because [allegedly] «a woman is the most vulnerable point, a chink in the armor of a man». Therefore, the prosecutors began to improve their knowledge of GBV and its causes, turned to the Office of the UN Special Representative, Pramila Patten, [and] began to form new practices. The understanding came that we are dealing with something much bigger than CRSV, and this is only a part of GBV.

It is important to note that an understanding of GBV is essential for investigators to understand why women are particularly targeted in armed conflict. Such awareness is not only about recognizing acts of violence, but also about understanding the systemic inequalities that make women more vulnerable in such situations.

Prosecutors' and investigators' awareness of GBV can influence the approaches used to investigate cases of CRSV, encouraging them to take into account the socio-cultural factors that contribute to women's vulnerability. This will enhance the quality of investigations of CRSV and the application of a victim-centred approach.

* **Advanced training for prosecutors.** The Prosecutor's Training Center of Ukraine is a state institution was created in 2020²¹ and based in the National Prosecution Academy of Ukraine for the purpose of improving the qualifications of prosecutors. Training courses are provided for prosecutors, and are also aimed at training trainers.

In the period 2018–2021 a number of activities were implemented within the framework of the DCAF project, aimed at strengthening the capacity of the justice sector in responding to domestic violence and violence against women. Thus, in cooperation with the National Prosecution Academy of Ukraine (the Prosecutor's Training Center of Ukraine):

- a manual on “Activities of prosecutors in preventing and combating domestic violence” was developed and distributed among prosecutors (2019);
- a model lecture on “The role of prosecutor in combating domestic violence” was developed and tested with the participation of 100 prosecutors (2019);
- online training for prosecutors on “Prosecutors’ counteraction of domestic violence» was developed and conducted (2020);
- an offline training course on “Responding to cases of domestic violence: Interaction between the prosecutor’s offices and the National Police of Ukraine” was developed, and training for trainers was conducted and integrated into the Prosecutor’s Training Center of Ukraine programme (2021).

These developed training courses became the basis for solving the issue of understanding

the problem of domestic violence and violence against women as a serious crime and were integrated into the training programs of the Prosecutors’ Training Center of Ukraine on an ongoing basis.

Moreover, the introduction of other training courses for public prosecutors, such as “Fundamentals of child-friendly justice: An online course for public prosecutors”²²; and “Peculiarities of criminal proceedings regarding criminal offences related to domestic violence through a prism of survivor-oriented approaches”²³, indicates a certain level of overcoming stereotypes and prejudices about domestic violence among prosecutors, as progress in the application of new approaches (for example, a survivor-oriented approach) can be traced.

Among the training programmes for prosecutors²⁴ in 2021 and the first half of 2022, a course on “Prosecutors’ counteraction of domestic violence” was held, aimed at improving the skills of prosecutors regarding participation in criminal proceedings related to domestic violence. A training course on “Certain aspects of proving crimes related to sexual violence against a child, and online violence in particular, and child pornography” was also launched, aimed at improving the skills²⁵ in identifying indicators of sexual violence against children. Mostly, such training takes place via an online course for prosecutors.

²² “Fundamentals of child-friendly justice: An online course for public prosecutors” (Prosecutors Training Center of Ukraine, E-learning portal), <https://el.gp.gov.ua/moodle/>

²³ “Peculiarities of criminal proceedings regarding criminal offences related to domestic violence through a prism of survivor-oriented approaches” (Prosecutors’ Training Centre of Ukraine, E-learning portal), <https://el.gp.gov.ua/moodle/course/view.php?id=137>

²⁴ Catalogue of training programmes for prosecutors (Prosecutor’s Training Center of Ukraine, Kyiv, 2021), https://ptcu.gp.gov.ua/files/archive/Catalog_I-2021.pdf

²⁵ Ibid.

²¹ Order of the Office of the Prosecutor General on Certain Issues of Establishment of the Prosecutor’s Training Center of Ukraine, No. 130 (Kyiv, 5 March 2020), <https://zakon.rada.gov.ua/laws/show/v0130905-20#Text>

We held trainings on GBV, where prosecutors who both work in this area and those who expressed a desire to do so but do not work on GBV issues could participate.

Arevik Abramyants, Prosecutor's Training Center of Ukraine

However, due to the limitations in the research methodology, we were unable to obtain information on practical application of the knowledge acquired by the trainees in the field of investigating sexual violence during conflict. This may indicate a weak institutional memory within the OPG manifesting itself in the absence of a systematic approach to transferring knowledge to prosecutors who join the relevant departments over time.

According to the data analysed and presented in this report, one of the key challenges is the lack of a systematic approach to the implementation of training programmes aimed at combating GBV and CRSV. This is reflected in the fact that despite the training sessions and other educational initiatives, the real impact on practice remains limited due to several factors, such as insufficient integration of these topics into training curricula and the lack of mandatory participation in such training for prosecutors.

Analysis of the training courses did not reveal evidence of a significant impact of capacity-building programmes on the response to CRSV, which may be due to several possible reasons. First, there may be insufficient engagement and sense of responsibility among participants in the programmes. Second, the study of results may be complicated by methodological limitations, including difficulties in tracking long-term outcomes after completion of the training. Furthermore, it is possible that the training was not sufficiently adapted to the specific needs and challenges faced by prosecutors dealing with CRSV investigations.

03 National courts.

According to usual procedure, criminal cases and cases of administrative offences related to GBV are heard in general local courts.

* **Specialization of judges.** There is no specialization in the courts regarding hearing of this category of cases, and they are distributed on general terms.

* **Indicators of hearing of cases on administrative offences related to domestic violence.** The results of judicial practice monitoring²⁶ for the first half of 2022, conducted by the Analytical Centre JurFem, indicate that regions of Ukraine in which active hostilities are not taking place have higher rates of hearing of administrative offence cases related to domestic violence. In contrast, those regions of Ukraine in which active hostilities are taking place or which are located near the front line have lower indicators of hearing cases related to domestic violence.

The results of the research show that in areas of active hostilities or near the front line, women and other survivors may be less likely to seek help or report cases of domestic violence due to fear, insecurity or lack of access to relevant institutions (social services, courts, the police, etc.). It should also be noted that many people, especially women and children, have fled their homes in the areas of active hostilities, which may have contributed to a decrease in the number of reported cases of domestic violence in these regions.

²⁶ "Domestic Violence in Ukraine: Response During the War (First Half of 2022)", report prepared by Analytical Centre JurFem with financial support of the Council of Europe, 6 October 2022, <https://jurfem.com.ua/en/report-domestic-violence-in-ukraine-response-during-the-war-first-half-of-2022/>

Taking these factors into consideration, it can be assumed that the decrease in the number of reported cases of domestic violence in the areas of active hostilities does not indicate a decrease in the violence itself, but rather difficulties in accessing justice and obstacles in reporting these cases.

★ **Protection of survivors' interests in courts.**

Since 2018, the legislation has specified the provision of free legal aid to survivors (Law of Ukraine "On Free Legal Aid", clause 22, part 1 of Article 14²⁷), including on the basis of general and special support services for survivors. The provision of such assistance is ensured by free legal aid centres which, in accordance with Article 13 of the Law of Ukraine "On Preventing and Combating Domestic Violence"²⁸, constitute entities working in the field of preventing and combating domestic violence. There are 24 interregional centers²⁹ providing free legal aid in Ukraine.

Thus, in addition to representation of their interests in court, survivors of GBV can receive a range of help at free legal aid centres³⁰, including drawing up necessary documents (applications to the police, applications for the issuance of a restraining order, applications for compensation for material/moral damage, applications to the court regarding the inactivity of the investigator, etc.), referral to a shelter for survivors of domestic violence and solving other legal problems, including in court.

²⁷ Law of Ukraine "On Free Legal Aid", No. 3460-VI (Verkhovna Rada of Ukraine, Kyiv, 2 June 2011), <https://zakon.rada.gov.ua/laws/show/3460-17#Text>

²⁸ Law of Ukraine "On Preventing and Combating Domestic Violence", No. 2229-VIII (Verkhovna Rada of Ukraine, Kyiv, 7 December 2017), <https://zakon.rada.gov.ua/laws/show/2229-19#n98>

²⁹ Free legal aid centres (Ukraine), <https://legalaid.gov.ua/tsentry/>

³⁰ "How the free legal aid system helps survivors of domestic violence" (Free Legal Aid, 27 November 2023), <https://legalaid.gov.ua/statyi/yak-systema-bezoplatnoyi-pravnychoyi-dopomogy-dopomagaye-postrazhdalym-vid-domashnogo-nasylstva/>

However, the judicial practice research shows that the interests of survivors of domestic violence are represented by lawyers in only 10–12 per cent of criminal cases, while offenders have lawyers twice as often. Many survivors still do not receive any legal help³¹. This may indicate both an insufficient level of trust of the survivors in the system of free legal aid and lawyers, and insufficient awareness of the survivors of the possibility of obtaining free legal aid.

★ **Improving the qualifications of judges. The National School of Judges of Ukraine (NSJU),** within its competence, trains specialists³² in preventing and combating domestic violence and regularly conducts training to improve the qualifications of judges in handling cases related to domestic violence.

In the period 2018–2021, a number of activities were implemented within the framework of the DCAF project aimed at capacity-building of the justice sector in responding to domestic violence and violence against women. In cooperation with the NSJU, the following activities were carried out.

- A training course for judges on "Peculiarities of hearing domestic violence cases" was approved (Kharkiv regional branch of the NSJU, 2018).
- A team of 25 trainer judges was instructed during two sessions of training of trainers (representatives of the five regional branches of the NSJU in Chernivtsi, Lviv, Kharkiv, Dnipro and Odesa and the main branch in Kyiv).

³¹ "How the Istanbul Convention will help the FLA system protect the rights of survivors of domestic violence" (Free Legal Aid, 18 June 2022), <https://legalaid.gov.ua/novyny/yak-stambulska-konvencziya-dopomozhe-systemi-bpd-zahyshhaty-prava-postrazhdalym-vid-domashnogo-nasylstva/>

³² "Peculiarities of consideration of cases related to domestic violence under martial law" (National School of Judges of Ukraine, April 21, 2023), <https://nsj.gov.ua/ua/news/osoblivosti-rozglyadu-sprav-povyazanih-z-domashnim-nasilstvom-v-umovah-voennogo-stanu/>



Photos of mentoring training sessions

- Six mentoring training sessions were conducted under the leadership of the NGO La Strada-Ukraine and members of the working group, which includes NSJU experts and acting trainer judges of NSJU regional divisions. During these sessions, 226 judges were trained. The course is institutionalized and integrated into the educational programmes of the NSJU.
- A training course for judges on “Peculiarities of the provisions on gender-based crimes” was developed and tested (Lviv regional branch of the NSJU, 2019).
- A practical handbook on domestic violence for judges was developed to provide material and guidance for hearing domestic violence cases (from both international and national contexts, with practice charts and comparative tables on the topic).

Judges in local and appeals courts and their assistants undergo advanced training on the topics of “Hearing of cases related to domestic violence” (a distance course), “Hearing of cases against sexual freedom and sexual integrity” (a workshop), “Application of legislation on combating domestic violence” (a lecture) and “Domestic violence: National protection arrangements and judicial practice” (an online workshop).

It was important that an international expert from DCAF joined [in developing the course on sexual violence in 2019–2020]. It was a game-changer in the course development and teaching process. She advocated practical and applied teaching methods and encouraged us to pay attention to this issue, so that we would form understanding among judges, [and] fight stereotypes regarding this issue. The involvement of the expert then changed the quality of the course.

Yuliia Anosova, La Strada-Ukraine

IV. Impact of the full-scale Russian invasion of Ukraine on the development and implementation of policies to prevent and combat GBV

The full-scale Russian invasion of Ukraine undoubtedly had an impact on the formation and implementation of policies related to combating and responding to GBV. This is actually due, *inter alia*, to the fact that the increase in the number of registered cases of domestic violence and GBV is often explained by an increase in violence in society in general and its perception as a normal phenomenon against the background of hostilities.

According to data from the National Police of Ukraine³³, in 2023 291,428 complaints of domestic violence and GBV were registered (47,047 more complaints than in 2022); 163,542 administrative offence reports were drawn up under Article 173-2 of the Administrative Offences Code of Ukraine (40,264 more than in 2022); and 98,947 urgent restraining orders were issued against offenders (compared to 43,341 issued in 2022).

Taking this into account, the **causal connection³⁴ between GBV and the full-scale Russian invasion of Ukraine has become widely acknowledged**, which is reflected in a number of explanatory and analytical notes to legislative acts and policies.

The war exacerbates gender inequalities, which in turn contribute to the growth of violence against women and other vulnerable groups. For example, reports by Amnesty International³⁵ and UN Women³⁶ highlight that the war has created conditions for impunity and increased violence against women and girls in conflict zones, making it much more difficult to provide assistance to victims. In addition, destroyed infrastructure and lack of access to critical services mean that many women and girls in Ukraine have been left³⁷ without the necessary support; this increases their vulnerability to violence, including CRSV.

This causal connection spurred the entities engaged in responding to and combating GBV to prepare the relevant legislation to amend the laws of Ukraine and subordinate normative legal acts (Draft Law No. 7666 of 12 August 2022, “On Amendments to the Civil Procedure Code of Ukraine (regarding the improvement of the procedure for court hearing of cases on the issuance and extension of a restraining order)”³⁸, Draft Law No. 8329 of 2 January 2023, “On Amendments to the Administrative Offences Code of Ukraine in Connection with the Ratification of the Convention of the Council of Europe on Preventing and Combating Violence

³³ Iryna Popika, “Domestic violence in 2023: Data and trends” (Analytical Centre JurFem, 22 April 2024), <https://jurfem.com.ua/domashne-nasyistvo-2023/>

³⁴ “The Office of the Prosecutor General discusses ways of cooperation in combating domestic violence” (Office of the Prosecutor General, 24 February 2023), <https://www.gp.gov.ua/ua/posts/v-ofisi-genprokurora-obgovorili-slyaxi-vzajemodiyi-shhodo-protidii-domasnyomu-nasilstvu>

³⁵ “Ukraine: Women face grave risks as Russia’s full-scale invasion enters its second year” (Amnesty International, 8 March 2023), <https://www.amnesty.org/en/latest/news/2023/03/ukraine-women-face-grave-risks-as-russias-full-scale-invasion-enters-its-second-year/>

³⁶ “In Focus: War in Ukraine is a crisis for women and girls” (UN Women, 22 February 2023), <https://www.unwomen.org/en/news-stories/in-focus/2022/03/in-focus-war-in-ukraine-is-a-crisis-for-women-and-girls>

³⁷ “Fighting conflict-related sexual violence in Ukraine” (UN News, 4 December 2022), <https://news.un.org/en/story/2022/12/1131317>

³⁸ Draft Law “On Amendments to the Civil Procedure Code of Ukraine (regarding the improvement of the procedure for court hearing of cases on the issuance and extension of a restraining order)”, No. 7666 (Verkhovna Rada of Ukraine, Kyiv, 12 August 2022), <https://itd.rada.gov.ua/billInfo/Bills/Card/40238>

against Women and Domestic Violence)”³⁹ etc.), to implement measures provided for in the operational plans of strategic documents, and to create and apply new approaches.

Additionally, the newly established OPG Department for the Protection of Children’s Interests and Combating Domestic Violence and the Division for Conflict-Related Sexual Violence in the OPG Department for War Crimes are actively working on implementing survivor-centred approaches. Specifically, they are developing standardized procedures for pre-trial investigations of these criminal offences, creating and implementing training programmes for specialists and enhancing cooperation with various entities providing assistance to survivors of GBV and CRSV.

It is important to note that previous work supported by international organizations, including DCAF, has significantly contributed to the speed and effectiveness of implementing survivor-centred approaches. This is because the specialists who have undergone prior training and are now working in the OPG, National Police and Ministry of Internal Affairs already possess a deep understanding of these criminal offences and the importance of adopting alternative approaches to their investigation.

V. Legislative and enforcement gaps in the field of preventing and responding to GBV

During 2017–2022, as part of DCAF project activities, a number of training courses were

developed and prepared, training was held for the NSJU and the Prosecutor’s Training Center of Ukraine, which became the basis for capacity-building of state institutions in ensuring justice in an appropriate response to GBV in Ukraine.

However, although the period 2017–2022 saw a number of progressive changes in creating and implementing gender equality policy and responding to and combating GBV, many legislative and law enforcement challenges remain to this day, among which the following should be highlighted.

01 Absence of a nationwide effective, comprehensive and coordinated policy on the prevention of domestic and gender-based violence

Despite the adopted strategic documents, there is still a lack of a nationwide effective, comprehensive and coordinated policy for the prevention of domestic violence and GBV. The work of bodies engaged in combating sexual violence is not coordinated at an adequate level.

This is confirmed by the fact that the Ministry of Social Policy as a coordinating entity, the Ministry of Internal Affairs and the OPG collect information on the number of domestic violence and sexual violence cases, but these data ultimately differ and do not take into account the identities of the perpetrator and the survivor, their relationship, etc. Also, within the framework of the interaction of actors that work in the field of preventing and combating domestic violence and GBV, law enforcement agencies do not always transmit timely information to structural units on family issues and services for children provided by local self-government bodies, and vice versa.

This lack of a unified database and inconsistent information exchange between law enforcement agencies, social services and other structures can lead to delays in providing assistance to survivors of CRSV and in investigating such cases.

³⁹ Draft Law “On Amendments to the Administrative Offences Code of Ukraine in Connection with the Ratification of the Convention of the Council of Europe on Preventing and Combating Violence against Women and Domestic Violence”, No. 8329 (Verkhovna Rada of Ukraine, Kyiv, 2 January 2023), <https://itd.rada.gov.ua/billInfo/Bills/Card/41104>

In addition, the lack of effective and coordinated policies on preventing and responding to domestic violence and GBV has a significant negative impact⁴⁰ on the response to CRSV, especially in times of war, which can lead to inefficient use of resources and insufficient support for survivors, and complicate the process of investigation and prosecution.

02 Work by the National Police of Ukraine to prevent and combat domestic violence

Police officers are entitled to enter a person's home without a reasoned court decision in urgent cases related to ending an act of domestic violence if there is immediate danger to the life or health of the survivor. However, in practice this arrangement is used extremely rarely. There are cases when neighbours contact the National Police regarding a possible act of violence, and survivors of the violence do not contact the law enforcement agencies to report the crime. As a result, National Police employees are held civilly liable for damaged property. Violating the inviolability of housing is also subject to criminal liability (Article 162 of the Criminal Code of Ukraine).

03 Insufficient statistical and administrative data, disaggregated by gender, age, ethnicity, disability status, place of residence and other relevant characteristics, for a thorough analysis of cases of domestic violence and GBV

To highlight objective data on preventing and combating domestic violence and GBV, it is vital to update indicators and methods of collecting statistical information on cases. The recording of case data should be carried out using the Unified State Register of cases of domestic violence

and GBV, with information entered by all entities implementing measures in this field.

Data on the commission of criminal offences in the form of domestic violence and sexual violence are collected by the OPG, which creates a unified report and provides information from the Unified Register of Pre-trial Investigations in compliance with the requirements of the legislation of Ukraine. The National Police of Ukraine collects data on the number of cases of domestic violence (as an administrative offence), GBV and issuance of restraining orders, and keeps records of persons who have committed domestic violence. These data note the gender of the individual.

The OPG and the National Police keep statistics on the number of offences (domestic violence, rape, sexual violence, etc.), issuance of restraining orders and registration of offenders based only on the gender of a survivor, with a separate indication of a child survivor. The reporting, which is handled by the OPG, does not provide for the separation of data on registered criminal offences (proceedings) and the results of their investigation in terms of the survivor and the offender (by gender, age or type of family relationship).

Hence as of today there are no official data in Ukraine about localities where women are most often affected by GBV and we do not know the ages of survivors and perpetrators, the type of family relationship between survivors and perpetrators, the presence/absence of child witnesses or where there is any connection with previous violent crimes committed against the survivor.

The accounting data also do not contain information on the share of convictions for all forms of violence covered by the Istanbul convention, or the number of issued court orders for the protection of survivors of violence. There are no separate judicial statistics on the issuance of restraining orders, refusal to issue them, etc. or the issuance of court decisions on prosecution of crimes of domestic and sexual violence, etc.

⁴⁰ "Fighting conflict-related sexual violence in Ukraine" (UN News, 4 December 2022), <https://news.un.org/en/story/2022/12/1131317>

04 Lack of a state compensation arrangement for survivors of violent crimes

Compensation for the harm⁴¹ caused to survivors of violent crimes is an important aspect for them. According to national legislation, there are two possible ways of redressing such damage: in the framework of criminal proceedings and in the framework of civil proceedings.

Such damages can be collected directly only from the person who caused the damage. Ukraine's legislation does not provide for the state to compensate a person who was affected by GBV for the damage caused to them in the event that the offender cannot pay such damages.

In Ukraine there is no arrangement for state compensation for survivors of violent crimes. Thus Ukraine ratified the Istanbul Convention with the caveat that it reserves the right not to apply the provisions of Article 2.30 on adequate state compensation for those who have sustained serious bodily injury or impairment of health.

In accordance with the Law of Ukraine "On Court Fees", a court fee is payable by the claimant in the event of claims relating to moral damage caused by a criminal offence. However, if a civil lawsuit is filed within the framework of a criminal case, the claimants within the criminal proceedings are exempted from paying the court fee.

At the same time, claimants are not automatically exempted from paying the court fee for a claim for compensation for material damage caused by a criminal offence related to domestic violence, or against a person's sexual freedom and sexual integrity.

Hence if an offence related to domestic violence or a criminal offence against a person's sexual freedom and sexual integrity caused serious injury to health or mutilation, the survivor is exempt from paying the court fee, but must provide relevant medical documents. If the survivor did not seriously suffer or was not maimed as a result of sexual or domestic violence, they are not exempt from paying the court fee. If a person claims moral damage in addition to material damage, they have to pay a court fee amounting to 1 per cent of the claimed amount.

Among the negative aspects of obtaining compensation within the framework of criminal or civil proceedings, it is necessary to single out the duration of the judicial review of lawsuits for damage compensation and the difficulty of implementing decisions in the event that the offender lacks funds to compensate for the damage caused. For survivors of criminal offences against sexual freedom and integrity, the lack of compensation in the short term after the experienced violence can be a disproportionate burden, given the harm caused by such a crime, the vulnerable state of individuals and the need for urgent assistance which often involves significant financial costs.

In Ukraine, the lack of availability of state compensation for the damage caused by violence causes survivors to face additional barriers in obtaining effective protection and restoring their rights. Even if the court issues a decision finding a perpetrator guilty and orders the collection of compensation, there is no guarantee that this decision will be executed and compensation for the damage will be paid to the survivor.

⁴¹ "National Guarantees of Compensation for Damage Caused by Violent Crimes: An Overview of the Legislation" (Analytical Centre JurFem, 22 November 2022), <https://jurfem.com.ua/vidshloduvannya-shkody-natsionalni-harantii/>

05 Lack of a systematic approach to the preparation and implementation of training courses on combating and responding to cases of GBV

Although some institutions (the NSJU and the Prosecutor's Training Center of Ukraine) have programmes and courses on combating domestic violence and GBV, the modern training of specialists on these issues is generally characterized by a lack of a systematic and consistent approach⁴² and an insufficient level of integration of issues in preventing and combating domestic and sexual violence to the training plans of specialists in institutions of higher education. This training process is mainly carried out with the support of non-governmental and public organizations. In general, personnel in the public service sector do not have an obligation to undergo training on the topics of gender equality and non-discrimination as a precondition for employment or upgrading a person's qualifications.

Even now, despite the ratification of the Istanbul Convention, despite the qualitative new changes in the legislation, the topic of GBV is silenced. On the part of law enforcement officers and prosecutors, there is no will to investigate and deal with sexual violence, unless it is rape. Law enforcement officers often do not see the nature of the crime.

Liudmyla Vyhivska, lawyer of the legal assistance line JurFem:support

06 Limited access to justice

(geographical distance from law enforcement agencies and courts, lack of financial resources to pay for professional legal assistance, the need to pay a court fee for filing lawsuits, ignorance of the possibility of obtaining primary and secondary legal assistance free of charge in secondary legal aid centres) **of certain groups of women and men, in particular women who are discriminated against on several grounds** (women from among the Roma national minority, internally displaced persons, persons with disabilities, elderly persons, HIV-infected persons, women who live in rural areas and highland settlements, and others).

07 Courts' failure to take into account aggravating circumstances when imposing punishment for the commission of a criminal offence.

Article 67 of the Criminal Code of Ukraine defines circumstances that aggravate the punishment, in particular repeated commission of a crime by a person and recidivism of crimes; commission of a criminal offence by a group of persons based on a prior conspiracy (Article 28, Parts 2 and 3 of the Criminal Code of Ukraine); committing a criminal offence on the basis of gender or racial, national or religious enmity or discord; serious consequences of the crime; committing a criminal offence against an elderly person, someone with a disability, a person in a helpless state or suffering from a mental disorder, in particular mental retardation, or a person who has mental disabilities; committing a criminal offence against a minor or in the presence of a child; committing a criminal offence against a spouse or ex-spouse or another person with whom the perpetrator is (was) in a family or close relationship; committing a criminal offence against a woman who was known to be pregnant; committing a crime with particular cruelty; and committing a crime in a generally dangerous way. Such aggravating circumstances correspond to Article 46 of the Istanbul Convention.

⁴² "Preventing and Counteracting Violence: Activities of Educational Institutions", training guide (Ministry of Education and Science of Ukraine, Institute for Modernization of Education Content, La Strada-Ukraine, UNICEF, Kyiv, 2020), https://www.unicef.org/ukraine/sites/unicef.org.ukraine/files/2020-07/Посібник_Протидія%20насилльству_0.pdf

It is worth noting that when imposing a punishment, the court cannot recognize as aggravating any circumstances other than those specified in Article 67, Part 1 of the Criminal Code of Ukraine. Martial law⁴³ was introduced on the territory of Ukraine in 2022. Under Article 67, Part 1, Clause 11 of the Criminal Code, committing a criminal offence during martial law is considered an aggravating circumstance. Article 126-1 of the Criminal Code stipulates penalties for domestic violence, which may include 150–240 hours of community service, up to six months of arrest, up to five years restriction of liberty, or up to two years of imprisonment. When domestic violence is committed under the conditions of martial law, the court has the authority to impose the maximum penalty, which is imprisonment for up to two years.

At the same time, as monitoring of judicial practice for the first half of 2022⁴⁴ shows, the courts have never taken into account this aggravating circumstance when imposing punishment for the commission of a criminal offence provided for in Article 126-1 of the Criminal Code.

08 Protection and support for child witnesses of domestic violence.

The Law of Ukraine “On Preventing and Combating Domestic Violence” contains the concept of a “child witness”⁴⁵. Article 59 of the

Criminal Procedure Code (CPC) stipulates that if the survivor is a minor, their legal representative shall be involved in the procedural action together with the survivor.

Article 13, Part 1, Clause 2 of the Law of Ukraine “On Free Legal Aid” stipulates that children are entitled to free secondary legal aid.

The National Hotline for Children and Youth (0 800 500 225 and 116 111) received calls from 20,000 survivors of domestic violence⁴⁶ in 2019, 100,000 survivors in 2020, and 120,000 survivors⁴⁷ in 2021. In 2022, 178,637 calls were received⁴⁸. As can be seen, the number of complaints about cases of violence against children increases every year.

Regarding the identification of a child witness as a survivor of domestic violence, in Case No. 753/19409/19⁴⁹ of 17 February 2021 the Supreme Court emphasized the importance of court identification of children who witnessed violence as survivors even in the absence of such identification by the police. However, the legislation of Ukraine contains obstacles to the automatic acquisition of the status of a survivor of domestic violence by a child who has witnessed such violence. Criminal procedural legislation does not provide the possibility for a child witness

⁴³ Order of the President of Ukraine “On the Introduction of Martial Law in Ukraine”, No. 64/2022 (Kyiv, 24 February 2022), <https://zakon.rada.gov.ua/laws/show/64/2022#Text>

⁴⁴ “Domestic Violence in Ukraine: Response During the War (First Half of 2022)”, report prepared by Analytical Centre JurFem with financial support of the Council of Europe, 6 October 2022, <https://jurfem.com.ua/en/report-domestic-violence-in-ukraine-response-during-the-war-first-half-of-2022/>

⁴⁵ Law of Ukraine “On Preventing and Combating Domestic Violence”, No. 2229-VIII (Verkhovna Rada of Ukraine, Kyiv, 7 December 2017), <https://zakon.rada.gov.ua/laws/show/2229-19#Text>

⁴⁶ Yuriy Chumak, “A child who witnesses domestic violence must be heard and protected” (Human Rights in Ukraine, information portal of Kharkiv Human Rights Group, 15 July 2021), <https://khpg.org/1608809322>

⁴⁷ “La Strada, the national hotline for children and youth, presents the social project, Talk to Me” (Marie Claire, 20 April 2022), <https://www.google.com/url?q=https://marieclaire.ua/uk/obshhestvo/natsionalna-garyacha-liniya-dlya-ditej-ta-molodi-la-strada-prezentu&sa=D&source=docs&ust=1728025189352163&usg=AOvVaw1306u6YZUjEX3vJdnYRLFx>

⁴⁸ National hotline for the prevention of domestic violence, human trafficking and gender discrimination (La Strada), <https://la-strada.org.ua/garyachi-liniyi>

⁴⁹ Decision of the Supreme Court in Case 753/19409/19 (Kyiv, 17 February 2021), <https://reyestr.court.gov.ua/Review/95066934>

to obtain the status of a survivor in the absence of a relevant application from the parents.. A person acquires the rights and obligations of a survivor as soon as they are recognized as such by an investigator or prosecutor based on evidence that they were affected by a criminal offence or socially dangerous act – regardless of whether the person has provided written consent. The representative of the child in such a case may be the persons provided for in Article 44, Part 2 of the CPC, provided that they are not abusers of the child.

There is a problem in practice that the participation of the legal representative and defender of a minor who is recognized as a survivor in criminal proceedings is not ensured.

In 2021, the Analytical Centre JurFem monitored court practice on bringing offenders⁵⁰ to administrative responsibility for committing domestic violence against a child (Article 173-2 of the Administrative Offences Code). Based on analysis of its report, the following problematic issues can be identified.

- Lawyers for human rights organizations have repeatedly noted the inadequate work of law enforcement officers and courts in identifying children affected by domestic violence. In the event that the police are called by a woman, the children who were witnesses are not indicated as survivors of domestic violence by the police officers in reports, and the children's service does not report such cases.
- The police and courts identify a child witness of domestic violence as a survivor in only 15 per cent of cases.
- Neither the police nor the courts usually take the child's age into account, making it difficult to identify a child as a minor under 14 or a minor under 18.

- A fine is the most common type of punishment (70 per cent of cases) for domestic violence committed against a child. The minimum fine for domestic violence is disproportionately low, amounting to less than half of the court costs incurred during the hearing of the same case.
- Violence is often repetitive, but this is not always taken into account either.
- It is critically rare for a psychological examination to be carried out during the hearing of a case involving a child to determine the damage caused by domestic violence. In this context, the problem again arises that the courts, as a rule, do not send offenders to correctional programmes. In isolated cases the guilty person is sent to the family social services centre to undergo a programme for offenders (Case No. 474/624/20). In other cases, the offender continues to live with the victimized child.
- At the national level, there is no responsibility of officials in cases of a failure to report domestic violence against a child.

09

Criminal offences provided for in the Criminal Code Article 126-1 (domestic violence), Article 151-2 (forced marriage), Article 152, Part 1 (rape without aggravating circumstances), Article 153, Part 1 (sexual violence), Article 154 (coercion into sexual intercourse) and Article 161, Part 1 (violation of the equality of citizens based on their race, nationality or religious beliefs without aggravating circumstances) are included in the list of crimes that are investigated according to the rules of criminal proceedings in the form of private prosecution, which contradicts the requirement of Article 55 of the Istanbul Convention.

⁵⁰ "Monitoring report on the case law on domestic violence committed against a child" (JurFem, Lviv, 12 May 2022), <https://jurfem.com.ua/en/monitoring-report-on-the-case-law-on-committing-domestic-violence-against-a-child/>

10 Some offenders avoid accountability because the responsible authorities fail to comply with legal procedures for documenting cases of domestic violence and GBV.

This includes writing reports in violation of the requirements of the Administrative Offences Code⁵¹, failure to assess the risks of domestic violence and failure to indicate that the violence was committed in the presence of children, which results in the latter not being recognized as survivors of domestic violence in most cases.

11 Low level of implementation of a survivor-oriented approach.

Survivors of sexual violence do not immediately seek help and report the crime. There is a problem with the investigation of such offences, as only about 50 per cent of sexual violence cases go to court. For six months of 2022, out of 31 registered criminal offences under Article 153 of the Criminal Code (sexual violence), only 16 reached the court. This was the trend in previous years as well. In addition, the criminal process in Ukraine focuses more on the accused, so the procedure is followed with respect to the latter and not to the survivor.

Often, in such crimes, the courts excuse the accused from punishment but assign a probationary period instead. In cases of sexual violence, it is essential to adopt a different investigative approach, recognizing that physical examinations alone cannot serve as decisive evidence. This is because crucial evidence is often lost for various reasons, including physiological factors. As a result, cases are dropped. During the pre-trial investigation, the interrogation of survivors should minimize the traumatic impact on them. This can include using

a video recording or making a statement by the survivor immediately at the court hearing.

12 Low level of trust in law enforcement agencies.

During May and early June 2023, JurFem (the Ukrainian Women Lawyers' Association) conducted a survey on the effectiveness of responding to cases of sexual violence in Ukraine; 747 people took part in the survey, of whom 94.5 per cent were women, 5.1 per cent were men and 0.4 per cent did not want to indicate their gender. Discussing the reasons that prevent survivors from seeking help or reporting criminal offences, 58.4 per cent of respondents answered that survivors do not know how to act⁵². Such data indicate that national and local authorities are not doing enough to raise awareness among citizens of prevention of and protection against sexual violence.

A number of legislative and enforcement gaps that currently exist can be resolved in the near future thanks to legislative initiatives that have found support in the Verkhovna Rada of Ukraine and are pending implementation. Among such initiatives, it is worth highlighting draft Law No. 8329⁵³ of 2 January 2023 on combating domestic violence to implement the provisions of the Istanbul Convention, which entered into force in Ukraine on 1 November 2022. The draft law contains progressive provisions for separation of responsibility for administrative

⁵¹ "Domestic violence in 2023: Data and trends" (Analytical Centre JurFem, 22 April 2024), <https://jurfem.com.ua/domashne-nasyistvo-2023/>

⁵² "Results of the survey on the effectiveness of responding to cases of sexual violence in Ukraine" (JurFem, Lviv, 23 June 2023), <https://jurfem.com.ua/en/results-of-the-survey-on-the-effectiveness-of-responding-to-cases-of-sexual-violence-in-ukraine/>

⁵³ Draft Law No. 8329 "On amendments to the Code of Ukraine on Administrative Offences in connection with the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)" (Verkhovna Rada of Ukraine, Kyiv, 2 January 2023), <https://itd.rada.gov.ua/billInfo/Bills/Card/41104>

offences in terms of domestic violence and GBV; consolidation of administrative liability in the Administrative Offences Code of Ukraine for committing sexual harassment; prevention of absolving an offender from responsibility on the grounds of insignificance of the offence; and recognizing children who witnessed domestic violence and GBV as survivors of such cases. These and other innovations were expected to take effect six months after the publication of the signed law. Once implemented, these changes are anticipated to have a positive impact on the development of practices for combating GBV.

In addition, draft law No. 10420⁵⁴ of 22 January 2024 regarding investigation and examination, conciliation agreement and criminal proceedings in the form of private prosecution in connection with the ratification of the Istanbul Convention was voted for in its first reading.

FINDINGS BASED ON THE RESULTS OF INTERVIEWS

The 2016 advocacy efforts of La Strada-Ukraine for ratification of the Istanbul Convention, namely analysis of the readiness⁵⁵ of the criminal justice system and legislation of Ukraine to ratify the convention, was the first project mentioned in DCAF's cooperation in the field of combating

and preventing GBV. After that, a study visit was conducted jointly with the NSJU to learn about the training courses offered by the latter. The visit resulted in a proposal to create a training course on the specifics of GBV cases, taking into account information on CRSV (it should be noted that this training was conducted before the full-scale invasion). The course was subsequently titled "Peculiarities of Proceedings of Gender-Based Crimes"⁵⁶ and was delivered by the NSJU, La Strada-Ukraine and DCAF within the framework of the EU PRAVO-Justice project. The course developers faced a challenge in teaching the module on CRSV within the course (in 2020) due to the fact that CRSV is an international crime, and understanding its specifics requires knowledge of international humanitarian law. According to the developers, the module on CRSV could have been more theoretical than practical, and it could have been difficult to understand due to the stigma and stereotypes that existed at the time, which are now being addressed in a more extensive way. Finally, the Istanbul Convention, which contains the term "gender" with reference to social roles, nowadays plays a very important part in reducing the "taboo" that surrounds sexual violence, including during conflict. An important factor that qualitatively strengthened the course was the participation⁵⁷ of an international expert from DCAF, who advocated practical and applied teaching methods and enabled the participants to see different points of view other than those that may prevail in the group.

To date, judges attending NSJU events have expressed the need to further develop and implement such a course.

⁵⁴ Draft Law No. 10420 "On Amendments to the Criminal Procedure Code of Ukraine regarding investigation and examination, conciliation agreement and criminal proceedings in the form of private prosecution in connection with the ratification of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention)" (Verkhovna Rada of Ukraine, Kyiv, 22 January 2024), <https://itd.rada.gov.ua/billInfo/Bills/Card/43531>

⁵⁵ "Analysis of the readiness of the criminal justice system to implement the principles and obligations of the Istanbul Convention" (National School of Judges of Ukraine, Kyiv, 2017), <https://nsj.gov.ua/ua/international/different/1otsinka-gotovnosti-sistemi-kriminalnogo-pravosuddya-vtiluvati-printsipti-ta-zobov'yazannya-stambul'skoi-konventsii/>

⁵⁶ "Peculiarities of Proceedings of Gender-Based Crimes" (National School of Judges of Ukraine, Kyiv, 2019), <https://nsj.gov.ua/ua/news/zavershennya-rozrobki-treningu-osoblivosti-provadjenn-shodo-zlochyniv-vchinenih-za-oznakou-stati/>

⁵⁷ Amrita Kapur's LinkedIn page, <https://www.linkedin.com/in/amrita-kapur-phd-32034534/?originalSubdomain=jo>

In addition, La Strada-Ukraine, in partnership with DCAF, monitored the justice system's response to GBV, including domestic violence, in 2019⁵⁸ and 2018⁵⁹. The monitoring consisted of a number of mandatory units, including an assessment of the state of implementation of legislation on combating GBV, with a review of court practice, and analysis of a survey of survivors on how they perceive law enforcement responses to domestic violence. This two-stage analysis made it possible to assess how the system works in terms of both court practice and available statistics and the human component, i.e. how such a response is perceived. The monitoring helped La Strada and law enforcement agencies in their response to GBV, as it was a unique opportunity to strengthen their expertise and share it between them. As a result, when the full-scale invasion was launched there was no need to establish new links, as they had already been established through expertise and monitoring.

An important point to consider: when comparing approaches to GBV and CRSV cases, there are differences in awareness and sensitivity of the actors involved in these two categories. The lawyer interviewed noted that at the level of CRSV cases, actors, in particular prosecutors, are generally more sensitive and trained, ensuring that survivors are not summoned repeatedly, and they use the interrogation tool under Article 615 of the CPC. Judges understand all the risks and help prevent retraumatization. In contrast, when sexual violence (in a broad sense) is treated as an ordinary crime, there is a lack of such awareness and sensitivity. Therefore, it is recommended to apply best CRSV practices to GBV.

⁵⁸ "Monitoring of the response of the justice system to domestic and gender-based violence: 2019" (La Strada-Ukraine, Kyiv, 2020), <https://la-strada.org.ua/download/monitoryng-sytuatsiyi-reaguvannya-systemy-pravosuddya-2019>

⁵⁹ "Monitoring of the response of the justice system to domestic and gender-based violence: 2018" (La Strada-Ukraine, Kyiv, 2019), https://www.srji.org/upload/medialibrary/90f/Monitoring_web_final1.pdf

CHAPTER II.

ANALYSIS OF INSTITUTIONAL ARRANGEMENTS AND PRACTICES INTRODUCED IN THE FIELD OF RESPONSE TO CASES OF CRSV IN UKRAINE IN CONNECTION WITH THE FULL-SCALE RUSSIAN INVASION OF UKRAINE.

The full-scale Russian invasion of Ukraine increased the challenges for the system of responding to criminal offences. This is caused, on the one hand, by the system's need to respond to various types of ordinary crimes. For example, as statistics show, the number of cases of domestic violence in Ukraine increased during the full-scale invasion. According to the National Police of Ukraine, 291,428 complaints of domestic violence were registered in 2023, which is 47,047 more complaints than in 2022.

For example, in October 2023, the Head of the Ministry of Internal Affairs of Ukraine, Ihor Klymenko, during a joint meeting of law enforcement and other state bodies on combating domestic violence and protecting the rights and interests of its survivors, noted: "Due to the situation in the state, the tension in society has increased, many people have lost their loved ones, homes, and jobs. Many people are now internally displaced persons

and the intensity of violent behavior has increased. We take into account these and other negative trends in the analysis of the safety and security situation in the country. In turn, the Center for Strategic Analysis and Forecasting of the Ministry of Internal Affairs constantly monitors the safety and security situation, tracking the dynamics of statistical indicators over several years. According to the results of the last evaluation, several indicators reached a high level⁶⁰, including domestic violence.

On the other hand, an unprecedented challenge is the number and types of war crimes, which have been recorded since February 2022, including multiple cases of CRSV. As of June 2024, the OPG had recorded more than 134,100 crimes

⁶⁰ "Domestic violence in 2023: Data and trends" (JurFem, Lviv, 22 April 2024), <https://jurfem.com.ua/domashne-nasylstvo-2023/>

of aggression and war crimes, a significant proportion of which are offences provided for in Article 438 of the Criminal Code of Ukraine. Of these, over the past two years (2022-2024) an increase has been observed in the registration of criminal proceedings of such war crimes as CRSV, which is covered by Article 438. In particular, according to the OPG CRSV Division, as of August 2024 and since the beginning of the full-scale military aggression of the Russian Federation, 310 incidents of CRSV have been recorded against 113 men and 197 women; of these 15 were minors, of whom 14 are girls and 1 is a boy (a type of sexual violence not related to rape). Types of CRSV include rape, mutilation or violence against genitals, forced nudity, threatened and attempted rape, forced watching of sexual abuse of loved ones, etc. As of August, the largest number of cases of sexual violence was recorded in the Kherson region at 96. In Kyiv region this figure was 58, in Donetsk region 76, in Kharkiv region 36, in Zaporizhzhia region 20, in Chernihiv region 8, in Luhansk region 4, in Mykolayiv region 10 and in Sumy region 2⁶¹.

Conflict-related sexual violence (hereinafter CRSV) is a crime both under national law (Criminal Code of Ukraine) and under international law. CRSV as an international crime, depending on the specific circumstances of the crime, can be (1) a war crime, (2) a crime against humanity, and even (3) genocide. These are different types of international crimes, which have the violation of IHL norms in common. And if one-off cases of sexual violence can be classified as a war crime, then sexual violence as a crime against humanity is distinguished precisely by the scale and systematic nature of such cases. Sexual violence as a crime of genocide also has a special purpose – to destroy, in whole or in part, any national, ethnic, racial or religious group as such ...

Unlike the ICC Statute, the Criminal Code of Ukraine ... does not define a war crime, although responsibility for it (in particular, sexual violence) is provided for in Article 438 of the Criminal Code of Ukraine (“Violation of the Laws and Customs of War”), and does not include liability for crimes against humanity.

*Gender Dimensions of War.*⁶²

I. National legislation in the field of preventing and responding to cases of CRSV in Ukraine

As mentioned, the current Criminal Code of Ukraine, Article 438 provides for responsibility for violations of human rights. The overwhelming majority of crimes of CRSV are committed by a group of persons based on a prior conspiracy, which is reflected in the classification of criminal actions of the Russian military under Article 28, Part 2 of the Criminal Code of Ukraine. As the analysis shows, in addition to rank-and-file soldiers, the crime of CRSV is also committed⁶³ by persons from among the leadership of armed formations, security forces and bodies of the occupation authorities of the Russian Federation.

... The problems of the wording of this article are as follows: blanket character; ambiguity of the form of the actus reus “other violations of the laws and customs of war”; lack of a separate norm regarding the responsibility of

⁶¹ According to data distributed monthly by the OPG CRSV Division.

⁶² “Gender Dimensions of War” (JurFem, Lviv, 14 April 2023), <https://jurfem.com.ua/en/the-analytical-research-gender-dimensions-of-war/>

⁶³ “Peculiarities of the pre-trial investigation of sexual violence in time of war: What has changed in a year since the first notice of suspicion of committing CRSV was issued?” (JurFem, Lviv, 20 December 2023), <https://jurfem.com.ua/en/peculiarities-of-the-pre-trial-investigation-of-sexual-violence-in-time-of-war-what-has-changed-in-a-year-since-the-first-notice-of-suspicion-of-committing-crsv-was-issued/>

commanders; reference only to international treaties; failure to take into account the severity of the violation; understatement of sanctions compared to some “general” crimes (which would be classified if the crime was not committed in conditions of armed conflict).

*“Criminal proceedings for war crimes: Challenges and answers”*⁶⁴

Peculiarities of pre-trial investigation and trial of such criminal offences are established by the CPC of Ukraine. In accordance with Article 219, Part 2 of the CPC, for these particularly serious crimes the maximum period of pre-trial investigation is 18 months. The CPC does not list specific features of CRSV investigations, but by analysing its provisions and the current practice of CRSV investigations it is possible to single out the use of certain CPC institutions aimed at ensuring an effective investigation and compliance with the guarantee of the right to a fair trial provided for in Article 6 of the European Convention on Human Rights. In particular, it is possible to conduct a special pre-trial investigation in absentia, so there is a way to bring CRSV perpetrators to justice even in the conditions of their temporary physical absence⁶⁵ from Ukraine.

... Thus, even in the conditions when a Russian military serviceman who committed CRSV returned to the Russian Federation, is in the temporarily occupied territory of Ukraine or otherwise hides from the law enforcement agencies of Ukraine, and in the presence of

sufficient grounds to believe that it was he who committed or gave the order to commit CRSV, the fact of making a notification of suspicion is extremely important for bringing him to justice.

Taking into account the specifics of a special pre-trial investigation, i.e. carrying out the investigation in the absence of the suspect during procedural actions and making procedural decisions, an important aspect is compliance with the procedural form of the notification of suspicion; this is given by publishing such a document on the official OPG website.

A problem has been observed over the last two years regarding the publication of notifications of suspicion, particularly challenges in ensuring the non-disclosure of personal data (surnames, data on date of birth, place of residence, etc.) An analysis of notifications of suspicion related to criminal offences under Article 438 of the Criminal Code of Ukraine, published on the OPG official website in accordance with Article 297-5 of the CPC, reveals instances where such notifications were initially published with personal details, including information about the survivor, their address and other identifying information.

To solve this problem, the Verkhovna Rada of Ukraine registered Draft Law No. 9351⁶⁶ of 5 June 2023 “On Amendments to the Criminal Procedure Code of Ukraine on Improving the Procedure for Conducting Pre-trial Investigations and Trials in Criminal Proceedings Regarding Crimes which Are Related to Sexual Violence Committed in an Armed Conflict”, developed by the participants of the CRSV expert group of the Interagency Working Group on the Investigation of Crimes Committed in Armed Conflict under the OPG, which proposes a number of changes aimed at

⁶⁴ Iryna Hloviuk, “Criminal proceedings for war crimes: Challenges and answers” (ResearchGate, July 2023), <https://www.researchgate.net/publication/372451263>

⁶⁵ “Peculiarities of the pre-trial investigation of sexual violence in time of war: What has changed in a year since the first notice of suspicion of committing CRSV was issued?” (JurFem, Lviv, 20 December 2023), <https://jurfem.com.ua/en/peculiarities-of-the-pre-trial-investigation-of-sexual-violence-in-time-of-war-what-has-changed-in-a-year-since-the-first-notice-of-suspicion-of-committing-crsv-was-issued/>

⁶⁶ Draft Law No. 9351 “On Amendments to the Criminal Procedure Code of Ukraine on Improving the Procedure for Conducting Pre-trial Investigations and Trials in Criminal Proceedings Regarding Crimes which are Related to Sexual Violence Committed in an Armed Conflict” (Verkhovna Rada of Ukraine, Kyiv, 5 June 2023), <https://itd.rada.gov.ua/billInfo/Bills/Card/41960>

improving the criminal judicial procedure of CRSV investigation.

- To ensure confidentiality, it is proposed to provide for the hearing of motions and complaints during the pre-trial investigation and judicial review of such proceedings in a closed court session. At the same time, the right should be provided to decide on conducting criminal proceedings in an open court session subject to the survivor's written request.
- There is a proposed waiver of limited periods of pre-trial investigation for the investigation of criminal offences against peace, human security and international legal order (Chapter XX of the Criminal Code of Ukraine). This is because evidence, as well as survivors of CRSV and the perpetrators of these criminal offences, can often be unavailable in such cases for long periods of time for various reasons.
- It is proposed to allow the opportunity to participate in court proceedings remotely from outside the court premises using the participant's own technical means⁶⁷.

II. Policies ensuring justice with regard to CRSV

It is worth starting with the Strategy for Preventing and Combating Sexual Violence⁶⁸, which was

developed with the support of the UN Women in Ukraine and the UN Monitoring Mission on Human Rights in Ukraine with the approval of the Office of the Deputy Prime Minister for European and Euro-Atlantic Integration, the Ministry of Foreign Affairs and the Ministry of Justice of Ukraine. In 2018, when this document was published, the problem of CRSV was not as widespread as it is now (2024). This is stated in the text:

Since most people really do not understand what CRSV is, it is difficult to assess its prevalence and scale. Until now, there have been no official data. National legislation and legal practice regarding the criminal prosecution of sexual violence are limited and not fully aligned with international standards and practices.

For this reason the strategy gives general introductory material on sexual violence in conflict, its signs and foundations. In addition, it “provides guidance and recommendations on how Ukrainian government bodies, civil society organizations, international organizations, and the UN system can join forces to effectively prevent and respond to CRSV”. It is important that in addition to the educational component, the strategy contains a road map with goals and measures set for individual actors to realize the objectives defined in the strategy. Valuable recommendations that can be extracted from the document and are relevant at the moment include the development of standard operating procedures for communication with survivors of CRSV, production of informational materials, educational activities, ensuring access to services (in particular medical, psychological and legal assistance and rehabilitation programmes) and access to justice for survivors.

The Order of the Cabinet of Ministers of Ukraine “On the Approval of the National Action Plan for the Implementation of UN Security Council Resolution 1325 on Women, Peace, Security

⁶⁷ According to the explanatory note to Draft Law No. 9351 “On Amendments to the Criminal Procedure Code of Ukraine on Improving the Procedure for Conducting Pre-trial Investigations and Trials in Criminal Proceedings Regarding Crimes which are Related to Sexual Violence Committed in an Armed Conflict” (Verkhovna Rada of Ukraine, Kyiv, 5 June 2023), <https://itd.rada.gov.ua/billInfo/Bills/Card/41960>

⁶⁸ “Strategy for Preventing and Combating Conflict-Related Sexual Violence in Ukraine” (UN Women, UN Human Rights Monitoring Mission, 2018), https://ukraine.un.org/sites/default/files/2020-09/crsv%20strategy%20ua_0.pdf

until 2025”⁶⁹ established a vector of work in the field of CRSV as recognition of the need to take effective measures to protect survivors against the consequences of armed conflict and prevent and combat CRSV, and determined several operational goals: formation of a system of interagency detection and response, which ensures the creation of conditions for receiving comprehensive, timely protection and access to justice for persons affected by GBV and CRSV in armed conflict and in peacetime; providing comprehensive assistance to survivors of GBV and CRSV, taking into account their specific needs in armed conflict and peacetime; and ensuring the functioning of effective arrangements to prevent GBV, sexual harassment and CRSV.

From 2022, the Plan for the Implementation of the Framework of Cooperation between the Government of Ukraine and the United Nations in Prevention of and Response to Conflict-Related Sexual Violence⁷⁰ is the main document defining priorities and key actors in this area. The OPG, as one of the key actors of the justice sector, actively worked, inter alia, on the development and approval of a strategy to ensure a survivor- and witness-oriented approach when hearing CRSV cases. The Prosecutor General approved the Strategic Implementation Plan⁷¹ for OPG powers in the field of criminal prosecution of

CRSV on 26 June 2023; the plan was prepared in cooperation with national and international experts in international humanitarian law and gender-competent justice. The strategic plan aims to improve access to justice for CRSV survivors by conducting prompt, comprehensive, complete and impartial investigations and strengthening the OPG’s coordinating role, as well as effective maintenance of public prosecution in criminal proceedings in this category. In addition, changes were made to the Strategy for the Development of the Prosecutor’s Office for 2021–2023⁷², approved by Order of the Prosecutor General No. 489 of 16 October 2020. On 15 September 2023, the Prosecutor General also approved the Strategic Plan for the implementation of powers of the prosecutor’s office in the field of criminal prosecution of international crimes for 2023–2025⁷³. The plan’s strategic goals include implementing a system of prioritization and selection of criminal proceedings based on clear and transparent criteria, which will ensure fair justice in compliance with the principle of reasonable timeliness as well as protecting the interests of particularly vulnerable groups of the population, such as survivors of CRSV.

There is a signed Framework on cooperation between the Government of Ukraine and the UN on prevention and response to conflict-related sexual violence.

Based on this, trainings were held in Poland, which were attended by prosecutors and judges who will examine cases. The first

⁶⁹ Order of the Cabinet of Ministers of Ukraine “On the Approval of the National Action Plan for the Implementation of UN Security Council Resolution 1325 on Women, Peace, Security until 2025” (Cabinet of Ministers of Ukraine, Kyiv, 28 October 2020), <https://zakon.rada.gov.ua/laws/show/1544-2020-%D1%80#Text>

⁷⁰ “Plan for the Implementation of the Framework of Cooperation between the Government of Ukraine and the United Nations in Prevention of and Response to Conflict-Related Sexual Violence” (Cabinet of Ministers of Ukraine, Kyiv, 15 September 2022), <https://drive.google.com/file/d/10yzw2nXfdxjhgMwf0ijSFNZu3SbWBAkG/view>

⁷¹ “The Strategic Implementation Plan of powers of the prosecutor’s office in the field of criminal prosecution of conflict-related sexual violence” (Office of the Prosecutor General of Ukraine, Kyiv, 2023), <https://www.gp.gov.ua/ua/posts/spetsializovani-dokumenti>

⁷² “Strategy for the Development of the Prosecutor’s Office for 2021–2023” (Office of the Prosecutor General of Ukraine, Kyiv, 16 October 2020), <https://zakon.rada.gov.ua/laws/show/v0489905-20#n3>

⁷³ “Strategic Plan for the implementation of powers of the Prosecutor’s office in the field of criminal prosecution of international crimes for 2023–2025” (Office of the Prosecutor General of Ukraine, Kyiv, 2023), <https://www.gp.gov.ua/ua/posts/strategichni-plan-shhodo-realizaciyi-povnovazhen-organiv-prokuraturi-u-sferi-kriminalnogo-peresliduvannya-zavcinennya-miznarodnix-zlociniv-na-2023-2025-roki>

seminar was about what GBV and CRSV are, what the methodology of their documentation is, what the Murad Code is, what the realities of international experience are: the experience of Yugoslavia, Bosnia and Herzegovina. We talked about working with survivors, safety and security measures, planning and carrying out investigative actions, [and] interviewing survivors and their family members.

This led to the understanding that it is necessary to look for the GBV pattern, because it is not equal to CRSV. In each war crime, we must look for a relationship with other crimes. Then we can see the scale and system of organization of the crime together with the wording – who gave the order.

Anna Sosonska, Office of the Prosecutor General

To improve communication and inform CRSV survivors about progress in the investigation of their cases, the OPG established the Coordination Centre for the Support of Survivors and Witnesses⁷⁴. Its functions include providing comprehensive information support at all stages of criminal proceedings, coordinating the provision of legal, psychological, medical and social assistance by relevant services and NGOs, and implementing the necessary measures to prevent revictimization. Currently (in 2024), the Coordination Centre has started work at its permanent site in the OPG. Information exchange and timely informing of CRSV survivors about the progress of investigations are handled with the help of the well-established work of employees of the specialized division of the OPG and contact persons on CRSV issues in the regions during the fulfilment of the strategic plan for the

implementation of OPG powers in the criminal prosecution of CRSV. In addition, in April 2023, the Prosecutor General approved the concept of implementation of the support arrangement for survivors and witnesses of war and other international crimes⁷⁵. The support arrangement is aimed at enhancing protection and assistance for survivors and witnesses, strengthening their trust in law enforcement agencies and improving the quality of pre-trial investigation.

III. Key actors in the development and implementation of policies in the field of CRSV: Their roles and efforts

Today, most cases related to sexual violence committed in armed conflict are investigated by the National Police. At the same time, according to Article 216 of the CPC, powers are also assigned to employees of the Security Service of Ukraine. For investigative units of the Security Service, it is uncharacteristic to carry out pre-trial investigations in cases of sexual violence. Since the time of registration of cases of sexual violence as a war crime (in 2022), the Security Service has entrusted investigation of these cases to the National Police. This affects the efficiency and duration of pre-trial investigation, since survivors of CRSV are first forced to apply to the Security Service of Ukraine, and then to interact with investigators of the National Police. Procedural management of the pre-trial investigation is carried out by prosecutors, including those in the specialized Department for Combating Crimes Committed in Armed Conflict in the OPG Division of Procedural Management of Pre-trial Investigations and Maintenance of Public

⁷⁴ Coordination Centre for the Support of Survivors and Witnesses, <https://www.facebook.com/pgc.coordination.center>

⁷⁵ “The concept of implementation of the support arrangement for survivors and witnesses of war and other international crimes” (Office of the Prosecutor General of Ukraine, Kyiv, 11 April 2023), <https://zakon.rada.gov.ua/laws/show/v0103905-23#Text>

Prosecutions in Criminal Proceedings of Crimes Related to Sexual Violence, which was created in 2022.

It should be noted that there is a need to make changes to the CPC of Ukraine to bring it into line with existing practice and introduce alternative liability, which will contribute to an effective response to these crimes and the protection of the rights of survivors. Such a change is proposed in Draft Law No. 9351⁷⁶ of 5 June 2023 “On Amendments to the Criminal Procedure Code of Ukraine on Improving the Procedure for Conducting Pre-trial Investigations and Trials in Criminal Proceedings Regarding Crimes which are Related to Sexual Violence Committed in an Armed Conflict”.

At the same time, the investigation of criminal offenses related to GBV and the pre-trial investigation were entrusted to the employees of the National Police of Ukraine, and the specialization of the employees of the Prosecutor’s Office was not provided for.

As mentioned above, over the last years since the beginning of full-scale invasion the OPG has been implementing systemic changes aimed at improving identification of and response to cases of CRSV. In particular, it is implementing new approaches to protecting the interests of survivors and witnesses:

- **adaptation to the personality of the survivors** (respect for the uniqueness of each survivor and consideration of their personal identities, characteristics and group affiliation, as well as other factors);

- **prioritizing the safety of survivors** (safety, health and dignity of the survivors are above other goals);
- **ensuring inclusiveness and non-discrimination** (intolerance of any forms of discrimination, avoidance of persecution, marginalization or pretended lack of personal autonomy or capacity);
- **ensuring the opportunity for survivors to maintain control over their information** (respect and support for the survivor’s right to privacy, control and autonomy in matters related to their personal history, identity and image, and protection of the confidentiality of any personal information or data of the survivor (in any form whatsoever);
- **prohibition of stigmatization** (prohibition of transfer and publication of any information about survivors that could lead to actions that accuse, embarrass, insult, condemn, humiliate, ridicule or disrespect them).⁷⁷

Notably, there is a possible link between the current approaches to CRSV implemented by the OPG and the GBV capacity-building activities conducted under previous DCAF projects. Systemic changes and new approaches, such as survivor-centredness, prioritizing their safety and ensuring non-discrimination, are aligned with the principles and training that DCAF has delivered.

For example, the focus on considering the individual needs and identities of survivors reflects a deeper understanding of gender sensitivity, which is a key element of GBV capacity-building. The work done by DCAF and other organizations to provide materials and training for prosecutors and judges on how to handle domestic violence cases is likely to have influenced this approach. For example, a model lecture on “The Role of the Prosecutor in Combating Domestic Violence”

⁷⁶ Draft Law No. 9351 “On Amendments to the Criminal Procedure Code of Ukraine on Improving the Procedure for Conducting Pre-trial Investigations and Trials in Criminal Proceedings Regarding Crimes which are Related to Sexual Violence Committed in an Armed Conflict” (Verkhovna Rada of Ukraine, Kyiv, 5 June 2023), <https://itd.rada.gov.ua/billInfo/Bills/Card/41960>

⁷⁷ According to data provided by the OPG Division of Procedural Management of Pre-trial Investigations and Maintenance of Public Prosecutions in Criminal Proceedings of Crimes Related to Sexual Violence

and the courses developed and implemented by DCAF may have contributed to a more individualized, survivor-centred approach.

This may have had an impact on the development of such approaches in CRSV, indicating that capacity-building in GBV may indeed have had an impact on how CRSV cases are handled, even if this impact is not always explicitly recognized or traced at different levels of the investigation and trial process.

To strengthen the institutional capacity of prosecutors to carry out investigations of CRSV, the Division of Procedural Management of Pre-trial Investigations and Maintenance of Public Prosecutions in Criminal Proceedings of Crimes Related to Sexual Violence, in cooperation with representatives of the Prosecutor's Training Center of Ukraine, non-governmental public organizations, state institutions and international experts in studying the causes of gender-based and sexual violence in armed conflict, has prepared nine documents⁷⁸ for prosecutors and investigators on the identification and investigation of certain forms of CRSV, which are included in the professional development training of prosecutors.

The Ministry of Internal Affairs reported that during 2022–2023 police officers of the central police management body, interregional territorial police bodies and territorial police bodies studied topics related to the prevention and combating of sexual violence, and CRSV in particular, by using the Information Portal of the National Police of Ukraine. For example, in partnership with JurFem and the United Nations Development Programme (UNDP), a programme was initiated

and developed and training was conducted⁷⁹ for prosecutors, National Police investigators and lawyers who investigate crimes of CRSV on the topics of “Identification and provision of assistance to survivors of war crimes using the example of CRSV cases” and “Investigation of crimes of conflict-related sexual violence in accordance with international law”. To introduce a survivor-centred approach to the investigation of cases of CRSV, the Ministry of Internal Affairs developed a guideline on “Peculiarities of the investigation of facts of sexual violence in armed conflict”⁸⁰, distributed it in investigation units and initiated the production and distribution of information materials.

In relation to Article 438 as regards CRSV, the website of the NSJU offers a training course on “Protection of Human Rights in the Armed Conflict in Ukraine”; however, it does not list the course topics, so it is unknown whether the issue of CRSV is addressed within the course. There are no other publicly available courses on CRSV. Regarding the activities of the courts, the website of the Supreme Court has posted the Memo on the qualification⁸¹ of cases of CRSV for use by investigators, prosecutors, judges, and human rights defenders in their practical activities”.

However, it is important to mention that the NSJU, as noted in the interviews, is currently actively working on implementing courses aimed at familiarizing judges and judicial assistants

⁷⁸ “Guidelines for investigating CRSV” (Office of the Prosecutor General of Ukraine, Kyiv), <https://www.gp.gov.ua/ua/posts/pam-yatki-z-rozsliduvannya-snpk>

⁷⁹ “Identification and provision of assistance to survivors of war crimes using the example of CRSV cases” (Ministry of Internal Affairs, Kyiv, 2023), <https://mvs.gov.ua/upload/1/7/5/4/0/4/treningi-dlia-slidcix-npu.pdf>

⁸⁰ “Peculiarities of the investigation of facts of sexual violence in armed conflict” (Prosecutor's Training Center of Ukraine, Kyiv, 2023), <https://mvs.gov.ua/upload/1/5/3/6/6/8/document-20.pdf>

⁸¹ “Memo on the qualification of cases of conflict-related sexual violence (CRSV) (for use by investigators, prosecutors, judges, and human rights defenders in their practical activities)” (Supreme Court, Kyiv), https://supreme.court.gov.ua/supreme/pro_sud/aktyal_pytan1_kks/

with issues related to sexual violence during the conflict. For example, in April 2023, work was initiated on a training course on sexual violence, in particular on handling cases of CRSV. This development was prompted by numerous requests and suggestions from judges. The NSJU planned to include training for both trial and appellate judges and judicial assistants in its standardized curriculum for 2024 (as requested by judges themselves). In addition, a training session was held in cooperation with La Strada-Ukraine on writing judgments regarding war crimes, during which the speakers emphasized the need to refer to international law correctly and appropriately in such cases. The training took into account the issue of vulnerable witnesses, survivors, tools for avoiding retraumatization during court proceedings, etc. Now the question arises of the need to introduce a joint course with pre-trial investigation bodies to strengthen coordination and understanding of the work of both parties, as well as to return to active training courses on domestic violence.

IV. Judicial practice regarding the prosecution of those guilty of CRSV

Between the beginning of the full-scale Russian invasion of Ukraine and June 2024, 20 indictments against 29 people were sent to court and five people were sentenced to imprisonment – three for up to 12 years and two for up to 10 years and 11 years; one sentence in relation to one person did not enter into legal force^{82 83}.

⁸² According to the data provided by the OPG Division of Procedural Management of Pre-trial Investigation and Maintenance of Public Prosecution in Criminal Proceedings of Crimes Related to Sexual Violence.

⁸³ It should be noted that open resources for the search of court decisions do not contain information about verdicts passed before 2022 for crimes under Article 438 of the CC of Ukraine that contain elements of CRSV. Relevant information on the website of the Office of the Prosecutor General is also unavailable.

In 2022, national courts delivered two verdicts finding persons guilty of the crime provided for in Article 438, Part 1 of the Criminal Code of Ukraine. Both verdicts were handed down in the Chernihiv region – by the Novozavodsky District Court of the City of Chernihiv and the Bobrovytsia District Court of the Chernihiv region. The verdict of the Novozavodsky District Court was reviewed by the court of appeals based on the defence's appeal in 2023 and left unchanged. In 2023, no other judgments were passed in cases related to CRSV. Hence in this category of cases, three decisions were made on their merits: two verdicts by the courts of first instance in Cases No. 729/592/22 and No. 751/2659/22 and one decision by the court of appeals in Case No. 751/2659/22. Forms of CRSV used by offenders were threat of rape, forced nudity and attempted rape.

It should be noted that the court decisions do not contain the word “CRSV”, and the incriminated acts are formulated as “... grossly violating the requirements of Articles 27–33 of this Convention, deliberately committed acts of cruel treatment of civilians PERSON_11 and minor PERSON_12, thereby violating the laws and customs of war stipulated by international treaties which the Verkhovna Rada of Ukraine consented to consider as binding. By the specified actions, which were expressed in the intentional brutal treatment of civilians, PERSONS_8 and PERSONS_7 violated the laws and customs of war provided for by international treaties, which the Verkhovna Rada of Ukraine consented to consider as binding, they committed a criminal offence provided for in Part 1 of Article 438 Criminal Code of Ukraine” or “... committed acts of cruel treatment of civilians ... which violated the laws and customs of war provided for by international treaties, which the Verkhovna Rada of Ukraine consented to consider as binding”.

Given the lack of detailed information in the analysed court decisions and related procedural resolutions, one cannot draw conclusions about how the survivors were informed about their

rights, whether their consent to certain procedural actions was informed and conscious, whether they were given the opportunity to participate in the legal process if they so desired, how their safety was ensured, whether psychological support was provided, whether other needs were met or whether compensatory arrangements were applied. Based on identified trends, however, the authors make several recommendations to strengthen the protection of participants in criminal proceedings during CRSV investigations. These include ensuring the confidentiality rights of survivors and witnesses, enhancing the training of criminal justice professionals handling CRSV cases, and improving their understanding of key areas such as the construction of the prosecution's case, the application of international humanitarian law, the practices of the International Criminal Court and the provision of legal aid to CRSV survivors.

In addition, it can be concluded that CRSV in court decisions is considered mainly in the context of war, and not as part of the broader phenomenon of GBV. This is illustrated by the fact that court decisions do not use the term “CRSV” and instead focus on violations of the laws and customs of war, including the ill-treatment of civilians. The lack of explicit terminology and the linking of CRSV to military operations only may indicate a limited understanding of its relationship to GBV.

It is reasonable to assume that judges and prosecutors have limited awareness of the link between CRSV and GBV. This can be explained by the fact that court decisions do not explicitly mention the link between these phenomena, and CRSV is treated exclusively as a war crime and not as part of the broader phenomenon of GBV. This may be one of the reasons why GBV capacity-building has not significantly impacted on the response to CRSV.

FINDINGS BASED ON THE RESULTS OF INTERVIEWS

Based on the data presented above and the results of the interviews, one can conclude that considerable attention is being paid to the investigation and consideration of CRSV cases, particularly by the international community. New approaches are being developed, and attention is being paid to survivor-centred practices and the prevention of retraumatization. However, despite the differences between GBV (ordinary) and CRSV (military) crimes, they may have similar patterns, such as the treatment of survivors. A representative of the Prosecutor's Training Center of Ukraine mentions this, and notes that in cooperation with other colleagues they developed material on “Psychology of Interrogation of Vulnerable Groups of Persons”. This is universal (for working with both GBV and CRSV survivors), so it can be applied to both categories of crimes. We would also like to mention the statement made by the lawyer of JurFem: support during the interview regarding the section on GBV: “... at the level of CRSV cases, actors, in particular prosecutors, are generally more sensitive and trained, so survivors are not summoned repeatedly, and they [actors] use the interrogation tool in accordance with Article 615 of the Criminal Procedure Code”. Hence, it is also essential to analyse the existing practices that were previously used for CRSV and take them into account in educational activities for proceedings participants and the consideration or investigation of GBV cases. Additionally, based on the experience of the JurFem: support lawyer, an approach where survivors can testify anywhere, have access to legal support regardless of their country of residence, and report violence in any way (online/offline) should prevail in working with survivors of CRSV. GBV, on the other hand, is mostly investigated at the place of commission, so such practices should not be applied.

In an interview with a civil society representative, a suggestion was made to involve international experts more thoroughly and continuously in the development of standard procedures, policies or other documents, so that Ukrainian national approaches are synchronized with those of international judicial institutions. Attention should also be paid to awareness-raising activities with employees of the Security Service, who, according to observations, may be less sensitive than those working in the National Police due to less training experience.

The representative of the OPG emphasized that investigations of CRSV cases should be approached more comprehensively and should be planned and foreseen with desired outcomes in mind (not limited to evidence collection, analysis and identification of gaps). She also emphasized the importance of raising awareness from an early age and supports the destruction of stereotypes that “women are always to blame”. “Why shouldn’t there be a victimology study? Because the only reason why a person became a victim [survivor] is because the offender decided to do so.”

CHAPTER III.

CURRENT SITUATION AND AREAS FOR IMPROVEMENT OF THE WOMEN, PEACE AND SECURITY AGENDA: SELECTED ASPECTS

UN Security Council Resolution 1325 on Women, Peace and Security, adopted in 2000, was the first resolution to address simultaneously the themes of women's rights, peace and security, recognizing that armed conflict has differential impacts on women and girls and men and boys. The key factors that led to the adoption of this resolution were the need to address the different needs of women and men in relief efforts and post-conflict peacebuilding. UN Security Council Resolution 1325 emphasizes the importance of working to protect the rights and address the needs of victims in conflict and post-conflict situations, including protection from various forms of violence and persecution. In particular, it emphasizes the increased risk of women and girls being trafficked, sexually abused and raped, and, accordingly, the need to take into account the special needs of women and girls, including vulnerable categories and women victims of GBV and CRSV. Subsequently, in 2008, the UN Security Council adopted its Resolution 1820, which recognizes that CRSV, when used as a method or tactic of war, can constitute a threat to international peace and security and, depending on the context, may constitute a war crime, a

crime against humanity or a crime of genocide.

To implement policies in this area, the Cabinet of Ministers of Ukraine adopts relevant action plans. The first National Action Plan for the Implementation of UN Security Council Resolution 1325 on Women, Peace and Security until 2020⁸⁴ was approved in 2016. One of its most important achievements was that the lack of systematic criminal investigations and convictions in connection with cases of sexual violence related to armed conflict was finally recognized. A goal was set to improve the mechanism for reporting such crimes⁸⁵. With the adoption of this plan, Ukraine became the first state to implement Resolution 1325 into national legislation in the context of armed conflict.

⁸⁴ "The National Action Plan for the Implementation of UN Security Council Resolution 1325 on Women, Peace and Security until 2020" (Cabinet of Ministers of Ukraine, Kyiv, 24 February 2016), <https://zakon.rada.gov.ua/laws/show/113-2016-%D1%80#Text>

⁸⁵ "Conflict-Related Sexual Violence in Ukraine: Legislative Regulations" (JurFem, Lviv, 25 July 2022), <https://jurfem.com.ua/en/conflict-related-sexual-violence-in-ukraine-legislative-regulation/>

In 2018, the UN conducted an interim evaluation of the National Action Plan, which had to address the debatable question of whether to focus on conflict-related sexual violence or gender-based violence more broadly. An expert from UN Women Ukraine clearly stated that measures to “prevent domestic violence and combat human trafficking are not related to the implementation of UNSCR 1325 and should be part of the relevant policy regardless of the presence of armed conflict”.⁸⁶

Subsequently, by its Order of 28 October 2020, No. 1544-p, the Cabinet of Ministers of Ukraine approved the National Action Plan for the Implementation of UN Security Council Resolution 1325 on Women, Peace, Security until 2025⁸⁷. Its strategic goals include ensuring protection from GBV and sexual violence (in armed conflict and in peacetime). To achieve this goal, it was proposed to update the legislation on combating GBV in accordance with international standards; develop tools to record cases of crimes against life and health, sexual freedom and inviolability, honour and dignity of a person in conflict in accordance with UN and NATO standards; develop tools to ensure the provision of effective and timely assistance to victims of GBV; and identify institutional mechanisms for the proper investigation of such crimes.

Given the new challenges posed by the full-scale invasion, which could not have been taken into account when developing the National Action Plan, and the expiration of the relevant plan in 2024 (the last one ran for a period of five years until 2025), preparations are under way in Ukraine at various levels (in both planning

and activities of public authorities and NGOs working in the sector) to update this National Action Plan by formulating relevant proposals and recommendations.

Among the key steps that need to be taken today is the harmonization of national legislation with international law, taking into account the recently adopted Draft Law on Ratification of the Rome Statute of the International Criminal Court and Amendments thereto, No. 0285 of 15 August 2024, which ratified the Rome Statute of the ICC. This means that consistent work is now needed to bring the provisions of national legislation, in particular the Criminal Code and the Code of Criminal Procedure, into line with the standards of the ICC's activities and practices. It is equally important to develop appropriate standards for law enforcement agencies, in particular the OPG, to respond to cases of CRSV in Ukraine and, accordingly, to continue training law enforcement officers and representatives of civil society and international organizations to improve the effectiveness of investigations and documentation of cases of such violence.

Another important area of work is to improve coordination and interaction between different service providers for survivors of CRSV. For this purpose, it is important to map service providers to develop a common understanding and referral opportunities for victims at both national and local levels⁸⁸:

Various institutions that provide assistance to victims and implement measures to combat conflict-related sexual violence at the national and local levels do not sufficiently coordinate their activities. These and other problems impede an objective assessment of the scale of such crimes and the development of response programs.

⁸⁶ Ibid.

⁸⁷ “National Action Plan for the Implementation of UN Security Council Resolution 1325 on Women, Peace and Security until 2025” (Cabinet of Ministers of Ukraine, Kyiv, 28 October 2020), <https://zakon.rada.gov.ua/laws/show/1544-2020-p#Text>

⁸⁸ “State institutions responding to sexual violence during the full-scale armed aggression of the Russian Federation against Ukraine” (JurFem, Lviv, 12 October 2022), <https://jurfem.com.ua/en/state-institutions-responding-to-sexual-violence-during-the-full-scale-armed-aggression-of-the-russian-federation-against-ukraine/>

RECOMMENDATIONS

RECOMMENDATIONS regarding the development of institutional arrangements and practices for the effective response to cases of GBV in war

Taking into account the legislative and law enforcement challenges in the field of responding to and combating GBV, it is worth formulating a number of recommendations that will contribute to strengthening Ukraine's capacity to respond to GBV. Among the key tasks for Ukraine today is the need for **further development of the arrangement of interaction of actors implementing measures in the field of preventing and combating GBV and CRSV.**

Separate recommendations have already been proposed in previous monitoring reports conducted by DCAF, but they remain relevant for this reporting period as well, and the majority of recommendations were prepared on the basis of existing practices, approaches and legislation in this area.

01 The Office of the Prosecutor General, the Ministry of Internal Affairs of Ukraine, courts of Ukraine:

Implement procedures to minimize the number of interrogations of GBV survivors, including the use of video recording of first-time testimonies, which will help reduce the risk of retraumatization and ensure greater trust in the justice system.

02 The Ministry of Social Policy of Ukraine, the Office of the Prosecutor General, the National Police of Ukraine:

Develop and implement a comprehensive system for referring GBV cases between law enforcement agencies and create an effective support network for witnesses and survivors, including psychological assistance, legal support and physical security measures.

03 The Office of the Prosecutor General, the National Police of Ukraine, courts of Ukraine:

Introduce communication standards on GBV cases, ensuring that both society and media are informed about the progress and results of investigations, taking into account the rights of survivors to confidentiality and protection from revictimization.

- 04** The Ministry of Internal Affairs of Ukraine, the Office of the Prosecutor General, the Prosecutor's Training Center of Ukraine, the National Academy of Internal Affairs, courts of Ukraine:

Introduce training programmes for criminal justice system personnel aimed at overcoming stigmatization of survivors and eradicating victimization practices, ensuring respect for dignity and human rights at all stages of the investigation and judicial process.

Develop specialized training modules on CRSV to be included in existing training programmes on GBV, which will help to raise awareness and improve the skills of law enforcement officers in responding to CRSV cases.

- 05** The Office of the Prosecutor General:

developing and implementing unified standards for pre-trial investigation of GBV cases, including specific investigative techniques and procedures for interaction with survivors, taking into account their needs and rights.

- 06** The Ministry of Internal Affairs of Ukraine, Office of the Prosecutor General, National Police of Ukraine:

Establish specialized units in law enforcement agencies to investigate various forms of GBV (not only domestic violence), which will contribute to more effective investigation and protection of survivors' rights.

RECOMMENDATIONS regarding the development of institutional arrangements and practices for the effective response to cases of CRSV as a war crime

Taking into account the ongoing and completed work in the field of responding to cases of CRSV as a war crime, it is worth making separate recommendations that will contribute to strengthening the capabilities in responding to CRSV in Ukraine.

- 01** The Office of the Prosecutor General:

- Develop and implement unified investigation standards to guide the process of collecting evidence, interviewing witnesses and interacting with other law enforcement agencies, which will ensure transparency and effectiveness of investigations.
- Develop an operational plan for the implementation of the Strategic Plan for the Implementation of the Prosecution Authority in the Prosecution of Conflict-Related Sexual Violence on a Regional Level, which would take into account local specificities and ensure coordination between the Office of the Prosecutor General and regional prosecutors' offices.
- Ensure the implementation and enforcement of special security measures for witnesses and survivors to guarantee their protection during and after a trial.
- Develop a plan for the step-by-step implementation of mechanisms to ensure confidentiality in the work of those responsible for documenting and investigating cases of CRSV (law enforcement officers, medical professionals, judicial system personnel and social services), and

establishing responsibility for violations of the principle of confidentiality.

- Develop an algorithm and conduct an assessment of the number of law enforcement officers, investigators, prosecutors, security officers, lawyers and judges who are trained on aspects of CRSV cases.

02 The Prosecutor's Training Center of Ukraine:

Introduce regular training programmes for law enforcement officials that cover modern investigative approaches (including a survivor-centred approach), as well as measures to protect witnesses and survivors of CRSV cases.

03 The Office of the Prosecutor General, the Ministry of Internal Affairs of Ukraine, state authorities, civil society organizations:

Introduce mechanisms for comprehensive cooperation between various state authorities, law enforcement agencies, civil society organizations and other actors in the field of combating and responding to CRSV, as well as establishing clear referral procedures.

04 The Ministry of Social Policy of Ukraine, the Prosecutor's Training Center of Ukraine, the National Academy of Internal Affairs:

Conduct regular training events for justice system personnel and social service providers that would include CRSV issues in the context of general approaches to GBV.

05 The Verkhovna Rada of Ukraine:

Amend the criminal procedure legislation with a focus on the confidentiality of survivors' data, in particular in the context of extending the pre-trial investigation in CRSV cases "for a sufficient period of time" (Draft Law No. 9351⁸⁹ of 5 June 2023).

⁸⁹ Draft Law No. 9351 "On Amendments to the Criminal Procedure Code of Ukraine on Improving the Procedure for Conducting Pre-trial Investigations and Trials in Criminal Proceedings Regarding Crimes which are Related to Sexual Violence Committed in an Armed Conflict" (Verkhovna Rada of Ukraine, Kyiv, 5 June 2023), <https://itd.rada.gov.ua/billInfo/Bills/Card/41960>.