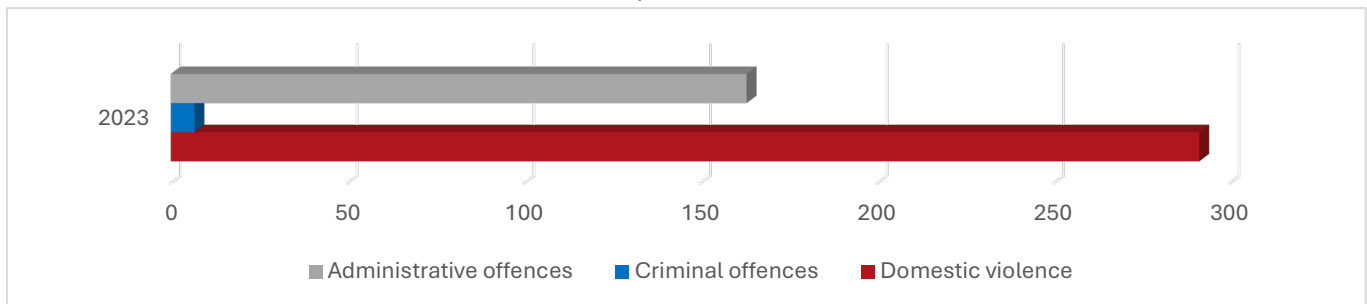


# DRC's Legal Special Alert on Gender-Based Violence and Prevention of Violence Against Children: Issue 107

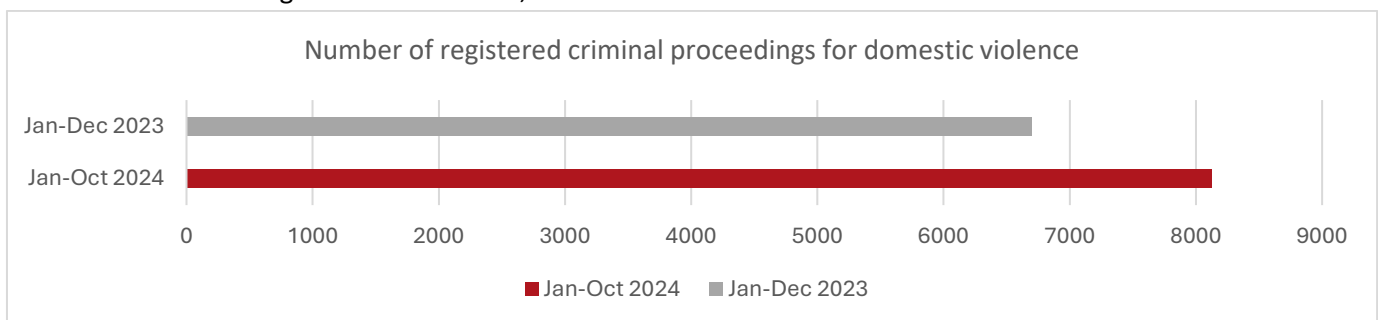
## Gender-Based Violence

### 1. The Parliament Advances Legal Reforms to Prevent and Combat Domestic Violence

**Background:** According to the Ministry of Internal Affairs (MIA), in 2023, 291,400 applications and reports of offences and other events related to domestic violence were registered. Out of these, more than 163,000 were considered as administrative matters, resulting in conclusion as administrative offences and the imposition of administrative sanction<sup>1</sup>; whereas 6,700 were further prosecuted as criminal offences related to domestic violence.<sup>2</sup>



According to the Office of the Prosecutor General, as of October 2024, the number of recorded cases of domestic violence increased by 80% compared to the same period last year (including both administrative and criminal cases). Specifically, a total of 8,125 criminal cases related to domestic violence have been registered in 2024, involving more than 5,000 survivors — most of whom are women and children<sup>3</sup>. This compares with the first 5 months of the 2024 when the number of registered cases was 1,521<sup>4</sup>.



**Recent developments:** On 22 May 2024, the Parliament adopted [Law No 3733-IX](#)<sup>5</sup>, amending [the Administrative Code](#) to increase liability for domestic and sex-based violence<sup>6</sup> in line with the below requirements of [the Council](#)

<sup>1</sup> People who violate rules governed by the Administrative Code are held administratively liable, and are subject to administrative sanctions, such as fines or community service, as specified in the Administrative Code.

<sup>2</sup> Link to the source: [https://media-www.npu.gov.ua/npu-pre-prod/sites/1/Docs/Dialnist/Richni\\_zvity/zvit\\_NPU\\_2023.pdf](https://media-www.npu.gov.ua/npu-pre-prod/sites/1/Docs/Dialnist/Richni_zvity/zvit_NPU_2023.pdf)

<sup>3</sup> Link to the source: <https://zmina.info/news/za-rik-kilkist-vypadkiv-domashnogo-nasylstva-v-ukrayini-zrosla-na-80-ofis-genprokurora>

<sup>4</sup> Link to the source: <https://opendatabot.ua/analytics/domestic-violence-2024-5>

<sup>5</sup> The law will come into force on 19 December 2024.

<sup>6</sup> In Ukrainian legislation, the term "sex-based violence" is used instead of "gender-based violence" because the concept of "gender" is not recognized in national law; instead, the term "sex" which is narrower in scope, is used.

of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (the Istanbul Convention)<sup>7</sup>. The new legislation contains provisions related to the following:

Issue	Situation before the introduction of the legislation	Situation following the introduction of the legislation
<b>Programmes for Perpetrators<sup>8</sup></b>	If a court issued a decision for a perpetrator to undergo a programme for perpetrators, the perpetrator had to approach the relevant services <sup>9</sup> and present the court decision. The procedure created risks of non-compliance and potential evasion of liability by perpetrators.	Courts send the decision directly to the relevant services regarding the requirement for a perpetrator to undergo the programme, ensuring that perpetrators cannot delay or avoid their participation in the programme.
<b>No Possibility to Avoid Administrative Liability for Domestic Violence on the Grounds of Insignificance<sup>10</sup></b>	An administrative offence related to domestic violence could be considered insignificant, resulting in an individual being exempt from administrative liability and receiving only an oral reprimand <sup>11</sup> , without any imposition of administrative sanction, often leaving perpetrators unpunished.	An administrative offence related to domestic violence cannot be considered insignificant. Therefore, if an individual is found guilty of committing such an offence, they are subject to administrative liability.
<b>Extended Timeframe for Administrative Sanctions in Domestic Violence and Sex-Based Violence Cases</b>	The court has only three months period from the date of the offence to decide on imposing administrative sanctions for committing domestic violence and sex-based violence.	This timeframe for relevant court decision is extended to six months. This gives more time to report domestic violence and sex-based violence, gather evidence, and ensure a thorough investigation.
<b>Introducing the Definition of Sexual Harassment and Related Administrative Liability</b>	Sexual harassment was previously considered only a type of sexual violence <sup>12</sup> which is a criminal offence.	A definition of sexual harassment and the associated administrative liability for these cases have been introduced in the Administrative Code. This will clarify the distinction between the definition and the administrative liability <sup>13</sup> imposed for sexual

<sup>7</sup> [The Istanbul Convention](#) ratified and came into force in Ukraine in 2022. As a signatory state, Ukraine is obligated to enhance its legislation on combating domestic violence and sex-based violence in accordance with this treaty.

<sup>8</sup> A programme for the perpetrator consists of measures based on a risk assessment, aimed at transforming the perpetrator's violent behaviour. It seeks to develop a non-aggressive psychological model for personal relationships, ensure that the perpetrator takes liability for their actions and their consequences—including child-rearing—and eliminate discriminatory beliefs about gender roles.

<sup>9</sup> By "relevant services," this refers to local self-government bodies and local state administrations.

<sup>10</sup> Insignificance of an offence is a case where the committed administrative offence is considered so minor that the court may decide not to impose administrative liability. This typically applies to situations where the offence did not cause significant harm, its consequences are not serious, and other circumstances of the case can be considered.

<sup>11</sup> An oral reprimand is not an administrative sanction, but a measure of influence that can be applied for a minor offence under the Administrative Code.

<sup>12</sup> According to Ukrainian law, sexual violence is a criminal offence defined as the commission of any violent sexual acts **not** involving penetration of survivor's body, without the voluntary consent of the survivor.

<sup>13</sup> Such acts will be punishable by a fine ranging from UAH 1.700 to 3.400, or community service (20 to 40 hours), or correctional labour (up to one month with a 20% deduction of earnings), or administrative arrest for up to 10 days.

		harassment as an administrative offence.
<b>Introduction of Separate Articles for Domestic Violence, Sex-Based Violence, and Failure to Comply with an Urgent Restraining Order in the Administrative Code</b>	Domestic violence, sex-based violence, failure to comply with an urgent restraining order, and failure to report a temporary residence while the order is in force were considered under the same provision with one sanction assigned under the provision.	A separate provision with relevant sanctions introduced for each type of offence, not to redefine them separately – since the definitions remain mostly unchanged – but to enable the assignment of different sanctions for each category.
<b>Protection for Minors<sup>14</sup> and Adolescents<sup>15</sup></b>	Minors and adolescents who witnessed domestic violence, sex-based violence were not recognized as survivors in such administrative cases unless they had suffered direct harm.	Being a witness to the offence allows minors and adolescents to be recognised as survivors in such cases.
<b>Introducing General Administrative Liability for Adolescents</b>	Adolescents who are perpetrators of domestic violence were subject only to punitive measures <sup>16</sup> .	Adolescents are held to administrative liability for domestic violence on the same grounds as adults <sup>17</sup> .
<b>Notification Requirement for Perpetrators Subject to An Urgent Restraining Order</b>	There was no specific timeframe prescribed by law for perpetrators subject to an urgent restraining order, requiring them to vacate the shared residence with the survivor, to inform the National Police of their temporary residence.	Perpetrators are required to notify the National Police of their temporary residence within one day of the order's issuance. This requirement aims to enhance the monitoring of the perpetrators' movements.

## Prevention of Violence Against Children

### 2. Legislative Amendments Preventing Violence Against Children

**Background:** In 2017, the United Nations Children's Fund (UNICEF) presented statistics showing that 67% of children aged 11 to 17 in Ukraine experience bullying<sup>18</sup>. In 2018, the Parliament enacted anti-bullying legislation, incorporating the concept of “bullying” into Ukrainian law and establishing administrative liability for bullying solely in educational process, recognizing that bullying predominantly occurs in educational settings, where children interact with their peers and teachers regularly and may face such acts most often.

According to the nationwide representative study “Bullying and Tolerance in Educational Institutions After February 24, 2022”<sup>19</sup> 51.3% of surveyed children reported having experienced bullying at some point. However, bullying is

<sup>14</sup> According to Ukrainian law, a child remains a minor until they reach the age of 14.

<sup>15</sup> According to Ukrainian law, an adolescent is a child between the ages of 14 and 18.

<sup>16</sup> E.g.: 1) an obligation to publicly or otherwise apologize to the survivor; 2) a warning; 3) a reprimand or a severe reprimand; 4) placing an adolescent under the supervision of parents or individuals in loco parentis, or under the supervision of a teaching or labour collective with their consent, as well as to other people at their request.

<sup>17</sup> According to Ukrainian law, an individual is considered an adult upon reaching the age of 18.

<sup>18</sup> Data are provided according to the Research conducted for UNICEF in 2017, link: <https://reliefweb.int/report/ukraine/bullying-ukraine-major-problem-children-unicef-launches-anti-bullying-campaign>

<sup>19</sup> The study of the Ministry of Education and Science of Ukraine, the Institute of Education Content Modernization, and the Safe Space initiative. It surveyed children aged 10 to 14 from November 2023 to January 2024, link: <https://mon.gov.ua/news/prychyny-bulinhu-rezultaty-masshtabnoho-doslidzhennia-v-ukrainskykh-shkolakh>

not confined exclusively to the educational process; it also occurs in other environments where children spend time, such as in sports, culture, health and recreation, and medical treatment.

**Recent developments:** On 6 June 2024, the Parliament adopted [Law № 3792-IX](#), enhancing the legal framework for preventing violence against children<sup>20</sup> and child maltreatment mainly in the form of bullying. The goal of the amendments is to refine the legislative definition of bullying, broaden its scope of application, and establish mechanisms for protecting the rights of children and others in all environments where bullying may occur. The following amendments were introduced:

Issue	Before	After
<p><b>Updated Definition of Bullying</b></p>	<p>In 2018, the definition of bullying was introduced in <a href="#">the Law of Ukraine “On Education”</a>, applying only to the educational process:</p> <p><i><b>Bullying is an act (action or inaction) of participants in the educational process that consists of psychological, physical, economic, or sexual violence, including the use of electronic communications, committed against a minor or adolescents and/or by such an individual against other participants in the educational process, because of which the survivor’s mental or physical health could have been or was harmed.</b></i></p>	<p><a href="#">The Law of Ukraine “On Protection of Childhood”</a> was amended by <a href="#">Law № 3792-IX</a> providing a new, broader definition of bullying, thus expanding the scope of anti-bullying legislation to include other environments where bullying may occur:</p> <p><i><b>Bullying is psychological, physical, economic or sexual violence, i.e. any intentional actions committed against the will, desire, without consent of the survivor, including with the use of electronic communications, and violate their rights, freedoms, legitimate interests and/or impede to the fulfilment of their obligations under the law, systematically committed against a child or by a child against another individual who is a member of the same collective<sup>21</sup>.</b></i></p> <p>By introducing the concept “collective”, the legislator acknowledges that bullying can occur in any collective setting – not just educational environments – where children engage in activities such as education, sports, creativity, rehabilitation, recreation, and medical treatment, but not exclusively.</p>
<p><b>Incorporation of Bullying, Mobbing, and Sex-Based Violence into the Definition of Child Maltreatment and Expansion of</b></p>	<p>The definition of child maltreatment, which includes protection measures for children facing it, did not encompass bullying, sex-based violence, or mobbing, leaving children who face these actions without adequate protection.</p>	<p>The definition of child maltreatment is expanded to include bullying, sex-based violence, and mobbing, thereby extending protection measures<sup>22</sup> for child maltreatment in these instances:</p>

<sup>20</sup> According to Ukrainian law, a child is an individual under the age of 18.

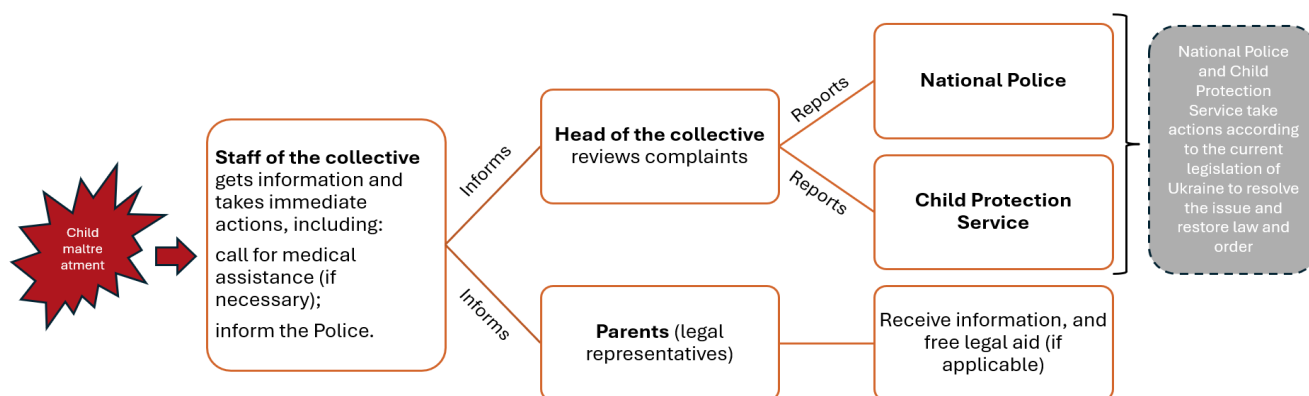
<sup>21</sup> Collective is a group of people united (organised) in accordance with the law for the purpose of education, sports training, creativity, rehabilitation, recreation, medical treatment, etc., and are not in an employment relationship with each other.

<sup>22</sup> For more information on protection measures for child maltreatment, please see the chart following this table.

<p><b>Related Protection Measures</b></p>		<p><i>Child maltreatment is any form of physical, psychological, sexual, or economic violence against a child, including domestic violence, <b>sex-based violence, bullying, and mobbing</b>, as well as any illegal arrangements concerning a child, such as recruitment, movement, hiding, transfer, or receiving of a child, committed for exploitation, through deception, coercion, or taking advantage of the child's vulnerable state.</i></p>
<p><b>Provision of Social Services</b></p>	<p>Bullying was not classified as child maltreatment, so children subjected to bullying did not automatically receive access to social services.<sup>23</sup></p>	<p>The children facing threats to their life or health, including those caused by bullying, provided with an access to social services. Such services are funded from the state budget.</p>

**NB:** Administrative liability for bullying remains unchanged and is applicable only to incidents that occur within the educational process. However, the draft law №9400<sup>24</sup> may extend this liability.

**This is How Anti-Bullying Protection Measures Look in Practice**



**3. Ministries<sup>25</sup> Launch Pilot Project for Child Protection Centres**

**Background information:** In Ukraine, the issue of violence against children is a significant concern. Various actors, including social services, medical institutions, law enforcement agencies, prosecutors and judges, work to promote children’s rights. However, these efforts are often uncoordinated as there is no effective referral mechanism in place. As a result, children often experience repeated trauma as they must go through multiple interviews conducted by various institutions<sup>26</sup>.

<sup>23</sup> According to Ukrainian law, social services must be provided to people facing threats to their life or health, including child maltreatment.

<sup>24</sup> Draft Law № 9400 from 19 June, 2023, link: <https://itd.rada.gov.ua/billInfo/Bills/Card/42132>

<sup>25</sup> Including Ministry of Justice, Office of the Prosecutor General, Ministry of Internal Affairs, Ministry of Social Policy, and Ministry of Health.

<sup>26</sup> Link to the source: [https://www.unicef.org/ukraine/media/21316/file/BARNAHUS\\_web\\_2.pdf](https://www.unicef.org/ukraine/media/21316/file/BARNAHUS_web_2.pdf)

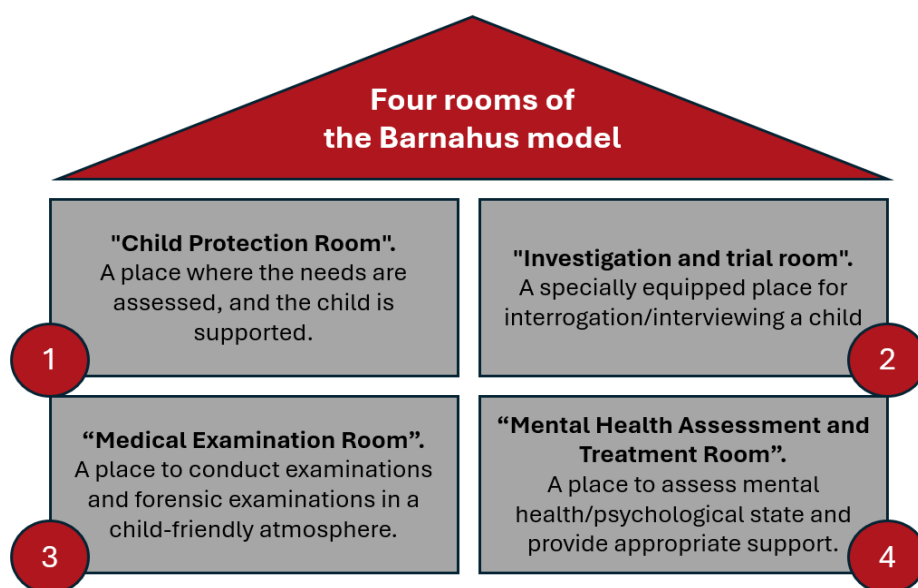
To address this issue, the Barnahus model<sup>27</sup> is being implemented in Ukraine with support from UNICEF and the Interagency Coordination Council on Juvenile Justice. In July 2020, a working group was established to oversee the implementation of the Barnahus model. A Barnahus has already been established and operational in Mykolaiv before the full-scale invasion. As of early December 2022, the Barnahus model had also been established and became operational in Vinnytsia, Ternopil, and Kyiv Oblasts<sup>28</sup>. Despite these advancements, there was no unified legislation to regulate and institutionalise the Barnahus model.

**Recent developments:** On 26 July 2024, the Ministries signed joint [Order № 2218/5/180/523/352-H/1306](#), which implements a pilot project for child protection centres based on the Barnahus model (the Centre). The Centre's objectives are:

- To provide a child-friendly environment for children who are survivors or witnesses in criminal proceedings during investigative (procedural) actions.
- To ensure that children who are survivors or participate as witnesses in criminal proceedings receive comprehensive social, psychological, legal and pre-medical assistance.

The Centre is an interdisciplinary, specialised institution and a structural unit within another institution, established to conduct certain investigative actions under the Criminal Procedure Code of Ukraine in a child-friendly environment. It offers comprehensive social, psychological, legal, pre-medical and other types of assistance and services to children who are survivors or witnesses of criminal offences.

The Barnahus model conventionally consists of four rooms, each designed for a specific purpose:



As part of the pilot project, children may be brought to the Centre by the National Police of Ukraine, other pre-trial investigation authorities, local executive authorities, local self-government bodies, and/or other trusted people, such as family members, relatives, or friends. This is done with the consent of their legal representative or the child's personal consent, to conduct investigative and procedural actions in a child-friendly environment designed to minimize trauma.

A mandatory initial step is a meeting with a psychologist or social work specialist at the Centre, where:

- child's needs are assessed;

<sup>27</sup> Barnahus is an Icelandic word for "children's house", where multidisciplinary and interagency interventions are organized under one roof for child survivors of crime.

<sup>28</sup> Link to the source: <https://www.hsa.org.ua/blog/barnahus-efektyvna-systema-model-roboty-z-ditmy-shho-postrazhdaly-vid-nasylstva-abo-staly-svidkamy-takogo-2/>

- information to the child and/or legal representative on their rights and the available services is provided (including the right to receive free secondary legal aid and undergo a comprehensive medical examination).

**NB:** The Centre provides services to children and their legal representatives free of charge.

The scope of services for each child is determined individually, based on needs assessment. The Centre may provide round-the-clock accommodation when needed.

Upon completion of the procedures related to a child at the Centre and their return to their place of residence or further stay, the Centre will inform and involve the relevant social protection authorities. This ensures continued services for the children and their family.

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