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Non Performance or Improper Performance of Child Protection Responsibilities: Criminal and Criminological Aspects

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Abstract

The purpose of the article is to study theoretical and practical aspects related to criminal liability for failure to perform child protection responsibilities by persons entrusted with these responsibilities. A number of research methods were used in the work such as formal-dogmatic, comparative-legal, sociological and hermeneutics. The article analyzes the case law and identifies gaps in the criminal liability legislation that affect the lack of social responsibility of persons in charge of a child care. Moreover, on the basis of the conducted survey, there were found out criminal offenses which are directly linked to the non-performance of child's protection responsibilities, particularly domestic violence in different forms. Accordingly, a number of theoretical conclusions and proposals were formulated to improve the rules of liability for non-performance or improper performance of child protection duties by persons assigned with these responsibilities.

Keywords: duty to protect childhood, illegal actions, repeated criminal offense, exemption from criminal liability, juvenile (youth) justice.

Introduction

In the doctrine of criminal law, one of the most important grounds for criminalizing a penal prohibition for any criminal offense under the Criminal Code (further-CC) is its public danger. The definition of public danger is based on

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an assessment of the danger degree of certain acts in specific conditions of social development. The public response is caused by the consequences of criminal awareness of one's insecurity, the feelings of anxiety for one's safety and for the safety of one's children lead to serious suffering, depriving people of pleasure, joy of life, forming suspiciousness, vengeance, resentment, nervous and psychological disorders, especially having a negative impact on the most vulnerable part of the population - children.

A significant amount of scientific research is dedicated to the criminal law problems in protection of children's life and health and non-performance or improper performance of child protection responsibilities by persons entrusted with these responsibilities. The problem under consideration was studied by such scientists as I. Sopilko (2021), O. Uliutina (Uliutina et al., 2021), O. Gerasymenko (2021), Z.A. Kovalenko (2021), O.M. Yaroshenko (Yaroshenko et al., 2018). The object of the study is social relations that arise in connection with the non-performance or improper performance of child protection responsibilities by persons responsible for the protection of the child.

The subject of the study is Ukrainian normative legal acts concerning the performance of child protection responsibilities by persons on whom these responsibilities are assigned; domestic norm and problems of criminal legislation on liability for non-performance or improper performance of child protection duties by persons entrusted with these responsibilities; law enforcement practice and statistical information on non-fulfillment or improper fulfillment of these responsibilities.

The purpose of the article is to study the theoretical and practical problems of the criminal liability for failure to fulfil child protection responsibilities by persons assigned with these responsibilities and to develop scientifically substantiated recommendations for the improvement of its regulation and practical application.

The scientific novelty of the study lies in the results of a comprehensive analysis of the criminal liability for non-performance or improper performance of child protection responsibilities by persons entrusted with these responsibilities, based on the study of criminalization of non-performance or improper performance of these responsibilities, objective (object, subject) and subjective (motive, purpose) features of the criminal offense provided for in Articles 137 and 166 of the CC of Ukraine and the practice of imposing punishment for a criminal offense.

Methodological Framework

Achieving the goal of the study necessitated the use of various following research methods were used:

- formal-dogmatic method was used in the analysis of Art. 137 and166 of the CC of Ukraine on the construction of the article disposition, the identification of shortcomings in legislation, the development of proposals to improve the legislation;
- the method of hermeneutics was used to interpret the content of the legislation text;
- statistical method was used to analyze criminal cases under Art. 137 and Art. 166 of the CC of Ukraine, which made it possible to obtain data on the spread of this criminal offense in Ukraine and on persons who committed them. In addition, it was useful in analyzing Articles 137 and 166 of the CC of Ukraine, the data of the Prosecutor General`s Office on the involvement of persons who have committed criminal offenses provided for in Articles 137 and 166 of the CC of Ukraine;
- sociological method was used to study social phenomena and processes that lead to non-performance or improper performance of child protection responsibilities or malicious evasion of these duties by persons entrusted with these responsibilities;
- empirical method was used to survey of 234 teachers.

In 2021 the survey of 234 teachers was conducted, among them 94.5% are women while 5.5% are men, who have tertiary education. The average age of the respondents is 47, the average length of their teaching expertise is 22.5 years. Out of 234 teachers, there were:

35.85% - primary school teachers,
28,2% - subject teachers,
23,15 % - secondary school tutors,
4,15% - hight school tutors,
4% - psychologists;
2,5% - social care teachers,
1,15% - logopaedists;

- comparative legal method was used to analyze the composition of criminal offenses, the conflicts and gaps in the legislation, to comprehend the responsibilities of parents and persons responsible for the child in the absence of parents.

The Article 184 of the Code of Administrative Offenses "Failure of parents or persons replacing them to fulfill their responsibilities for the upbringing of children" (Verkhovna Rada of Ukraine, 1984) is analyzed, which is based on

certain legal norms such as the Law of Ukraine No. 2402-III "On Child Protection" (Verkhovna Rada of Ukraine, 2001a), the Decree No. 894/2019 "On urgent measures to improve the health of children" (President of Ukraine, 2019) and others.

Results

The study of statistical data on criminal offenses under Art. 137 and Art. 166 of the Criminal Code of Ukraine

First of all, the court verdicts under Art. 137 and Art. 166 of the CC of Ukraine were analyzed. It seems that the number of cases received by the court is quite small. However, regardless of this, the number of actually imposed punishments is insignificant. Consider the data in Fig. 1.

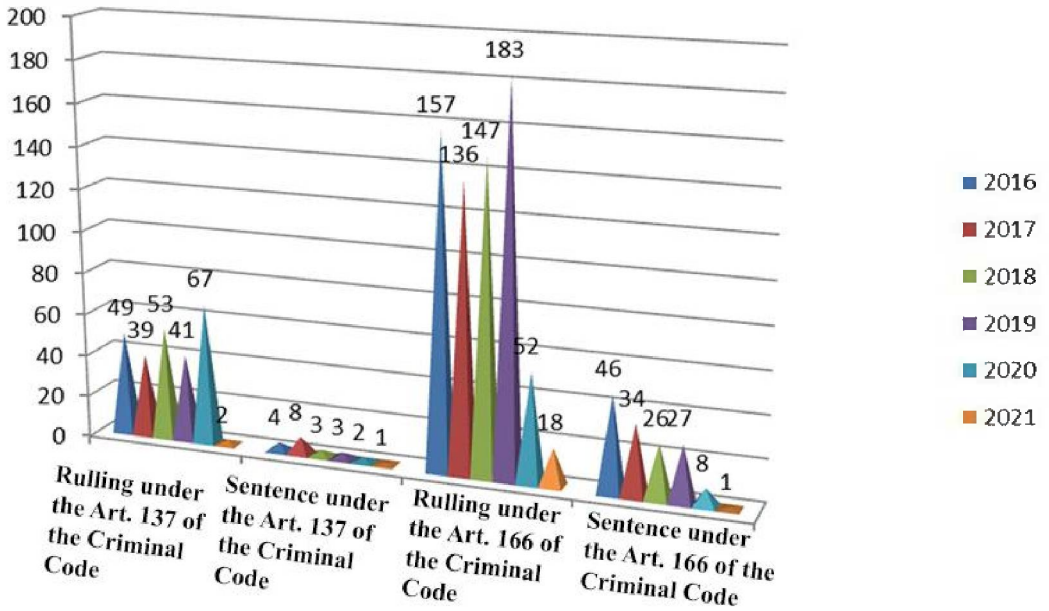


Figure 1. The number of rulings and sentences under the Art. 137 and the Art. 166 of the CC (2016-2021)

According to the figure, it appears that even out of the received decisions under Art. 137 of the CC the following sentences were passed:

- in 2016 – 8.3 %;
- in 2017 – 20.5%;
- in 2018 – 5.6%;
- in 2019 – 4.8%;

- in 2020 – 2.9 %;
- and for 7 months in 2021 – 50%.

The sentences were passed under Art. 166 of the CC, as follows:

- in 2016 – 29.2%;
- in 2017 – 25%;
- in 2018 – 17.6%;
- in 2019 –14.7%;
- in 2020– 15.3%;
- and for 7 months in 2021 – 0.5%.

However, the number of verdicts does not indicate the actual sentence completion, because in most cases when a person is found guilty, the minimum punishment is imposed. It is suggested to consider this tendency in Fig. 2 (Reyestr.Court, 2021a).

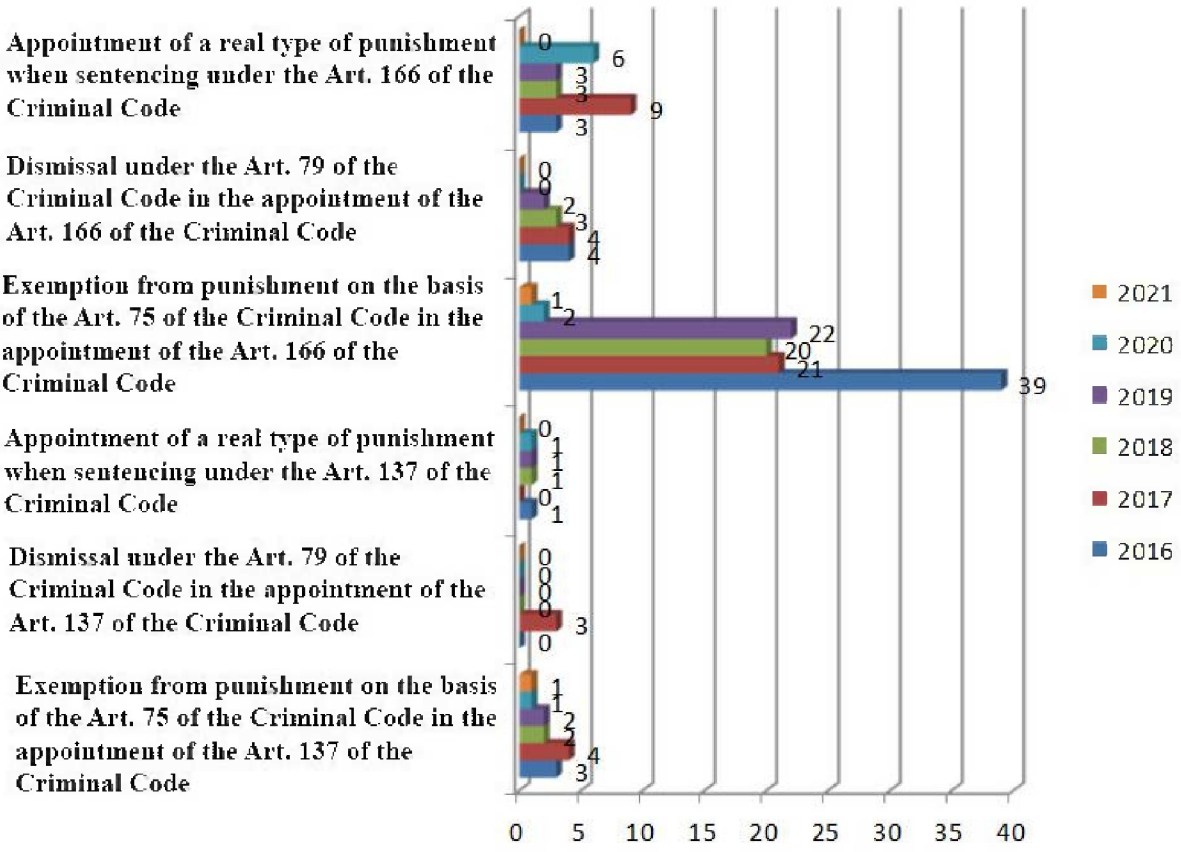


Figure 2. The tendency of imposing a minimum sentence from 2016 to 2021

Analyzing the figure in percentage terms, it can be argued that out of persons convicted for committing a criminal offense under Art. 137 of the CC of Ukraine, the rates of people who actually serve sentences are the following:

- in 2016 – 33 %;
- in 2017 – 50%;
- in 2018 – 50%;
- in 2019 – 50%;
- in 2020 – 50 %
- and for 7 months in 2021 – 0%.

For committing a criminal offense under Art. 166 of the CC of Ukraine, the rates of people who actually serve sentences are the following:

- in 2016 – 6.9 %;
- in 2017 – 3.6%;
- in 2018 – 13 %;
- in 2019 –12.5%;
- in 2020 – 50%
- and for 7 months in – 0% (Reyestr. Court, 2021b).

These statistics are frustrating due to the fact that the articles are "dead", even if there are all grounds for criminal prosecution and criminal proceedings are brought to court with an indictment, only 15% of persons will be found guilty, in addition, of these 15% of convicted the guilty were sentenced, in which only 50% will actually serve their sentences under Art. 137 of the CC of Ukraine and approximately 9% will actually serve their sentences under Art. 166 of the CC.

It is necessary to state that such statistical indicators demonstrate significant gaps in the legislation. It may mean the court does not see any need to impose a penalty for a real proven criminal offense. But to understand the main origins of the problem, it is worth analyzing an earlier stage of criminal proceedings - to the stage of pre-trial investigation and what indicators are officially given by the Office of the Prosecutor General of Ukraine.

For example, in 2019 the number of committed criminal offenses under Art. 137 relative to the total number of committed criminal offenses against life and health is 0.13% (the total number of criminal offenses against life and health is 321751, where 415 criminal offenses fall under Article 137 of the Criminal Code), which indicates a small place of this criminal offense among other criminal offenses against the life and health of a person. But this is not the end of interesting statistics. Thus, out of 415 initiated criminal proceedings during 2019, 23 (5.54%) persons were reported as suspects, 14 (3.37%) were brought to court

with an indictment, but 225 criminal proceedings were ceased on the basis of Part 1 and Part 4 of the Art. 284 of the CPC. This indicates that 54.2% of initiated criminal proceedings are ceased on the basis of Part 1 and Part 4 of Art. 284 of the CPC at the stage of pre-trial investigation under Art. 137 of the Criminal Code.

In order to draw any conclusions, it is necessary to analyze the statistical indicators of Art. 166 of the Criminal Code of Ukraine. The rate of criminal offenses committed under Art. 166 regarding the total number of committed criminal offenses against electoral, labor and other rights in 2019 is 2.37% (the total number of criminal offenses against electoral labor and other rights is 53553, out of which under 1270 criminal offenses fall under Article 166 of the Criminal Code)., In 2019, there were 85 (6.7%) criminal proceedings, in which persons were informed about the suspicion, 80 (6.3%) criminal proceedings were under indictment. However, 1185 (94%) criminal proceedings were ceased on the basis of Part 1 and Part 4 of Art. 284 of the CPC. Interestingly, in 2019 at the stage of the pre-trial investigation, there was no request for exemption from criminal liability in contrast to 2020, which will be analyzed below (see Fig. 3) (Prosecutor General's Office of Ukraine, 2019).

Furthermore, the number of committed criminal offenses under Art. 137 constitutes 0.074%, regarding the total number of committed criminal offenses against life and health in 2020, (the total number of criminal offenses against life and health is 307215, out of which 227 fall under Article 137 of the Criminal Code), which indicates a minimum rate of this criminal offense among other criminal offenses against life and health of the person. Statistics shows that during 2020 out of 227 initiated criminal proceedings, 35 (15.4%) persons were reported as suspects, 30 (13.2%) were under indictment, and 10 (33.3%) were under a request for release from criminal liability. However, 90 criminal proceedings were ceased on the basis of Part 1 and Part 4 of Art. 284 CPC, which indicates that 40% of initiated criminal proceedings were ceased under Part 1 and Part 4 of Art. 284 of the CPC at the stage of pre-trial investigation under Art. 137 of the Criminal Code.

The number of criminal offenses committed under Art. 166 regarding the total number of committed criminal offenses against electoral, labor and other rights in 2020 is 2.64% (the total number of criminal offenses against electoral labor and other rights is 50064, out of which 1323 criminal offenses fall under Article 166 of the Criminal Code). In 2020, there were 73 (5.51%) criminal proceedings where persons were informed about the suspicion, 60 (4.53%) criminal proceedings were transferred to court with an indictment, 46 (76.6%) ones were with a request for release from criminal liability and ceased on the basis of part 1 and part 4 of Art. 284 of the CPC. It means that 86% of initiated criminal

proceedings were ceased under Part 1 and Part 4 of Art. 284 of the CPC at the stage of pre-trial investigation under Art. 166 of the Criminal Code (see Fig. 4) (Prosecutor General's Office of Ukraine, 2020).

Based on the analyzed sentences, it can be stated that only 15-20% of the perpetrators of these criminal offenses are serving sentence, such as imprisonment and restriction of liberty. However, according to statistics, only imprisonment is imposed. After sentencing, in 80-85% of cases a person is released on the second form of criminal liability, namely according to Art. 75 (Exemption from serving a probation sentence) or Art. 79 (Exemption from probation for pregnant women and women with children under 7 years old).

The analysis of the judicial practice on exemption from criminal liability for criminal offenses under Art. 137 and Art. 166 of the Criminal Code of Ukraine

Let us consider the verdict of the case No. 354/932/18, court procedeeng No. 1-kp/938/4/20 of 14 April 2020. According to the provisions of the verdict, the accused PERSON_2 is a mother of minor children and is under control by the office of children's services concerning her shirking of parental duties in accordance with the requirements of the Declaration of the Rights of the Child (UN General Assembly, 1959), Convention on the Rights of the Child (UN General Assembly, 1989), Art. 150 of the Family Code of Ukraine (Verkhovna Rada of Ukraine, 2002) and Art. 12 of the Law of Ukraine "On the protection of childhood" (Verkhovna Rada of Ukraine, 2001a).

In March 2013, the mother, who went to the post office in the village of Tatariv, left her minor children in her house. She left a saucepan with boiled water on the stove realizing that the children have accesss to this stove. Lacking the possibility for self-preservation due to her minor age, the eldest child (9 years old) reached the saucepan on the stove and turned it over pouring the boiled water on herself. As a result, the child of 9 years old had a second-third degree thermal burn of the skin of the perineum and the lower extremities, which constitutes 15% of the total body surface area. It corresponds to the physical injury of medium severity that are not life-threatening at the time of their infliction and caused a long-term health disorder.

Therefore, the mother committed a criminal offense provided for by the Art. 166 of the CC of Ukraine. During the trial, the accused pled guilty to a crime on all accounts. Having reveived numerous reprimands by the office of children's services and penal notices for improper performance of child protection responsibilities provided for by the law, the accused continued failing to fulfil her child protection responsibilities. As a result, the minor children were placed to the psychosocial rehabilitation center from 03.02.2017 to 26.12.2017 for the second

time. It was determined thaty the children were socially abandoned. Currently the children are in care of the mother's sister and live with her.

The court takes int account that her guilt is proved by the following evidence:

-The conclusion of forensic examination conducted on 12.11.2018, which found out that the 9-year-old child had a second-third degree thermal burn of the skin of the perineum and the lower extremities, which constitutes 15% of the total body surface area. Therefore, autodermoplasty was carried out. This burn is thermal caused by high temperature. It corresponds to the physical injury of medium severity that are not life-threatening at the time of their infliction and caused a long-term health disorder.

-Medical records extracts in the period of 2016-2017, which state that on 01.05.2016 the child underwent skin plastic surgery to remove keloid scars in the area of the womb and the right upper leg. In 2017 the child was hospitalized with the right-sided bronchial pneumonia in the city hospital. It is also indicated that the 6-year-old child was treated for the bronchial asthma of an atopical form with medium severe course of aggravation in the hospital in 2017. The 2-year-old child's medical record states that it was treated for the bronchial asthma of an atopical form with the first degree of aggravation in 2017.

Psychological characteristics of all the minor victims assert their high emotional lability, mood swings, irritability, reluctance to contact, estranging (Salehina et al., 2021). Furthermore, the children displayed the speech delay, the lack of emotional attachment to their parents. However, they showe the need of emotional warmth, paretal care and close family relationships.

According to the pre-trial report, the rist of the accused committing a second criminal offence is consideted high and the danger level for the society is high (Senthilkumar, 2018). Therefore, the probation organization opines that her reformation without imprisonment can present danger for the society. Accordingly, having heard the case, the court invoked the following sentence: To sentence the mother to imprisonment of 2 (two) years under the Art. 166 of the Criminal Code of Ukraine. Under the Art. 75 of the criminal Code of Ukraine, to release the mother from the imprisonment and to impose the probation period of 2 (two) years. Under the Art. 76 of the Criminal Code of Ukraine, to impose the following duties on the convicted mother:

-to report ot the authorized probation organization;

-to inform the authorized probation organization of the change of domicile, work, and study;

-not to leave Ukraine without the aprovement of the authorized probation organization;

-to comply with all measures provided for the probation.

Apart from that, them mother is not deprived of parental rights. Such a verdict raises the question whether the court fulfiled its preventive and protective functions. The convicted mother had been maltreating her four children for four years, had caused them physical injuries of different degrees of severity. She was warned about possible criminal responsibility for her actions. However, it did not change her behaviour. Furthermore, the court should not have applied the Art. 79 of the Criminal Code of Ukraine (Exemption from probation for pregnant women and women with children under 7 years old). In addition, the probation period should have been longer.

Ceasing criminal proceedings for non-performance of child protection responsibilities by persons entrusted with these responsibilities

It is necessary to consider the Part 3 Clause 1 of the Art. 284 of the Criminal Procedural Code of Ukraine, which states that sufficient evidence has not proved the person's guilt in court and exhausted opportunities to obtain them. There is other element of the criminal offense, namely the subjective side. Regarding the construction of the criminal offense composition, there are socially dangerous consequences in both components of criminal offenses. Accordingly, there is a child involved who has consequences in the form of significant damage to health (Article 137 of the CC) or serious consequences (Article 166 of the CC). However, the pre-trial investigation did not find the culprit, emphasizing his absence. For example, let's imagine that a child went out into the yard and fell from a tree, but there is no person responsible for caring for the child. If the tree is in the school yard, then the teacher is responsible who is entrusted with the child protection responsibilities or the parents if this occurs near the house.

However, the qualification formula is fulfilled. It means that the Art. 137 of the CC provides for a negligent form of guilt. Accordingly, even if the teacher was not around when it happened, he is still responsible for the protection of the child. In case of the parents, there is a malicious failure to perform duties. Thus, according to the explanatory dictionary of the Ukrainian language, "malicious" is one who inflicts evil, severe, unfriendly; full of anger; harmful, hostile, dangerous (Ukrlit, 2021). From this definition it is possible to conclude that this concept characterizes both the objective (social danger, harm) and subjective sides of the act (intent).

Then this example does not fit the Art. 166 of the CC, because it is impossible to prove the intent and that the child, when climbing a tree, does not fall. However, such events are unlikely to be registered in the SRPTI. At the same time, it is necessary to take into account cases when a person has previously been

warned about the inadmissibility of his or her behavior (Art. 184 of the Code of Ukraine on Administrative Offences) (Verkhovna Rada of Ukraine, 1984), for example, leaving unattended a child (ward). However, the person does not change his or her attitude towards the child (ward), he or she should be prosecuted according to the gravity of the offense. Thus, we can conclude that ceasing the criminal proceedings under the Part 3 of Clause 1 of the Art. 284 of the Criminal Procedural Code of Ukraine is more possible under the Art. 137 than under the Art. 166 of the of the CC.

It is also worth considering the Part 2 of the Clause 1 of the Art. 284 of the Criminal Procedural Code regarding "the absence of elements of crime in the act". It is the most common reason for ceasing criminal proceedings, although, as was discussed above, it is necessary to leave only 2 elements, that is the object and the subject, because other elements are related to the Parts 1 and 3. What can happen is the absence of the subject which must be proved by an expert opinion and forensic examination. However, according to the analyzed criminal cases, there was only one verdict in which the person was found to be of limited competence with further hospitalization.

The example concerned the Art. 166 of the CC. However, it is impossible to imagine that a person recognized as insane is obliged to protect the child under Art. 137 of the CC. Even if this happens, there are grounds for initiation of a criminal case under the Art. 364 of the Criminal Code against the relevant person who imposed a child protection duty on a mentally ill person. Therefore, another important element is the object of the criminal offense. The object is what is protected by the Law of Ukraine on Criminal Liability. And here the question arises whether the Criminal Code protects childhood at all? In the authors' opinion, it does not because meanwhile there is no separate section on the family and childhood, the protection of this right will remain covered insufficiently. So, it is necessary to pay more attention to the application of the Art. 75 and Art. 79 of the Criminal Code of Ukraine when releasing from criminal liability because it leads to a sense of impunity.

The sociological study on the cases of child abuse in families

According to the survey of teachers (Table 1), it was found out that in their professional activities 58,95 % of teachers faced the cases of child abuse. At the same time, the respondents understand the child abuse as harassment (13.25 %), manipulation (10.85 %), insults (8.15 %), intimidation (6.25 %), and threats (5.95 %). 29.25 % of the surveyed teachers comprehends the psychological abuse as insults, harassment, threats, manipulation, and intimidation together; 8.15 % of

the teachers defines it only as threats, manipulation, and intimidation; 7.65 % of the teachers understands it only as insults, threats, and intimidation.

The survey showed that 74.35 % of the respondents are interested in their students' family relationships. 35.85 % of the teachers indicated that their students addressed them with the problems of the psychological abuse in their families (66.5 % asked for help; 13.85 % - for advice; 11.5 % - with a desire to be listened to).

48.5 % of the respondents stated that they helped their students with this problem. It is worth noting that the help was delivered in the following forms: 28.25 % - communication with parents; 13 % - addressing the school administration; 7 % - addressing a social care teacher; 5,35 % - addressing the office of children's services; 2,75 % - addressing the police.

8 % of the teachers, who did not help their students when they asked for it, explained that they thought the abuse to be minor or just a way to attract attention by the students.

According to the survey results, it was determined that 90.5 % of the teachers believed that it was possible to notice the domestic violence without the child's complaints (psychological – 3 %, physical – 10.25 %, sexual – 0.5 %, economic – 1.85 %, all above mentioned – 12.75 %, physical and economic – 15,75 %, psychological and economic – 2.75 %, psychological, physical and economic – 2.5 %, physical and spychological – 41.15 %).

The children who suffered from abused are characterized by aggressiveness (28.65 %), fear (13 %), irritability (12.85 %), depression (4.5 %), unsociability (4.25 %), sadness (2.25 %), tranquility (1.5 %), and all above mentioned features (12.5 %). Thus, with the help of these characteristics, 32.35 % of the respondents can distinguish the cases of violence even the children do not about them.

The survey also demonstrated that the child abuses usually occur in dysfunctional families, as follows: alcoholic parents and/or low-income families (73.5 %); young parents (7.15 %); in well-to-do high-income families (6.15 %); single parents (5.85 %). According to the respondents, the main reasons of the domestic violence are alcoholism, drug addiction, unemployment, household dissatisfaction (41.15 %), low educational and cultural levels (22.5 %).

The majority of the respondents put forward that in order to protect children against domestic violence, it is necessary to raise the level of parents', guardians' knowledge on child abuse. It is necessary to carry out trenings with parents, spread more materials on the child abuse prevention (97.45 %).

For example, the survey, which was contucted among the respondents of different schools, showed that 23.85 % of the respondents would be shy to address the police for help. At the same time, regarding the question whom they could tell

about the non-performance of the responsibilities the result is the following: 24.05 % of the children would not tell anyone; 24.2 % - parents; 15,1 % – friends; 5,2 % – an anonymous expert; 2,5 % – a social specialist, 2,45 % – relatives; 1,4 % – strangers; 1,25 % – a policeman (see Fig. 3).

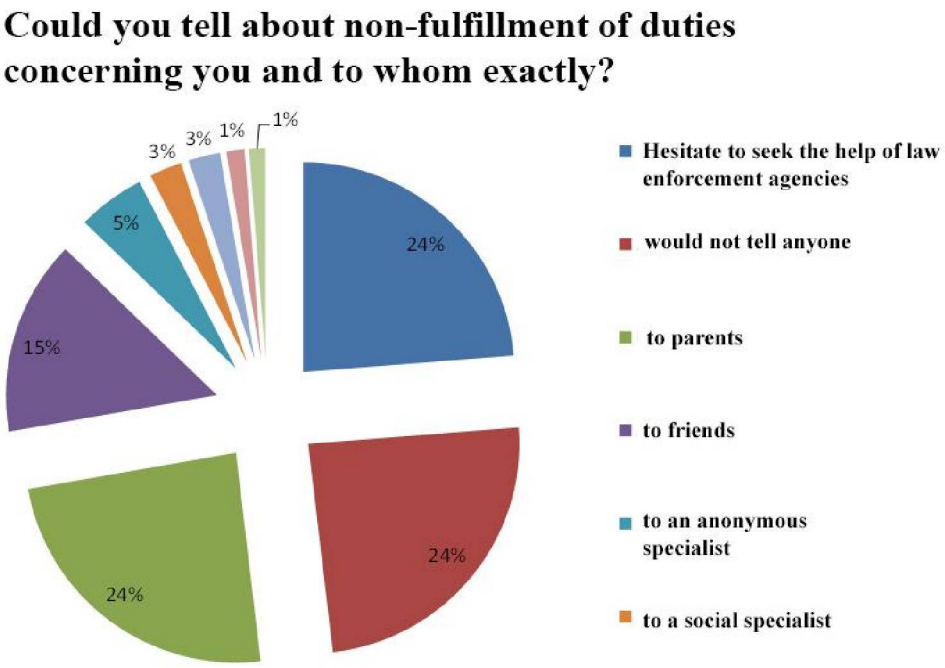


Figure 3. To whom the respondents could tell about the cases of abuse towards them

Given the prevalence of the Internet and social networks and taking into account the above indicators of children's isolation, it is necessary to introduce anonymous groups of assistance to children in social networks (Shafiee & Mutalib, 2020). The purpose of such groups will be to gather information on non-performance or improper performance of child protection responsibilities. On the basis of the received data the state measures of the child protection (general-social, special-criminological and individual-educational) would be further developed. It will allow to counteract the non-performance of duties or evasion of the child protection duties more effectively.

Discussion

As M. Mertsalov (2020) believes, a significant number of ceased criminal proceedings under the Part 1 of the Clauses 1, 2, 4, 6 of the Article 284 of the

Criminal Procedure Code of Ukraine may indicate latency of these types of offenses due to the problems with the qualification of actions (inaction) of guardians and trustees.

Accordingly, D.P. Evteeva (2016) and M.S. Boyko (2009) argue that the provision of the Article 166 of the Criminal Code of Ukraine should be formulated more specifically, taking into account all the needs of minors. The Article 166 determines that the children's or wards' care by parents, guardians and custodians involves a wide range of responsibilities for their education, physical, mental, spiritual, social and intellectual development, providing normal living conditions (food, clothing, living conditions) in accordance with their age and health, caring for their health, supervising and protecting from various negative factors, satisfying their basic needs. In addition, Y.S. Usova (2016) asserts that the disposition of the Article 166 of the Criminal Code of Ukraine does not disclose the meaning of a sufficient number of concepts, which leads to its arbitrary interpretation and increases the role of the subjective factor in rulling and sentencing.

It is worth highlighting that gaps exist not only at the level of the criminal legislation of Ukraine on non-performance or improper performance of child protection responsibilities by persons entrusted with these responsibilities. Thus, the Civil Code does not specify conditions of civil liability of a guardian in case he or she does not perform or improperly performs his or her duties. Nevertheless, there are Rules of Guardianship and Custody (State Committee…, 1999) whose paragraph 4.16 states that the bodies of guardianship and custody are obliged to seek monetary damages for unscrupulous or negligent performance of child protection duties. At the same time, the person, in respect of whom guardianship is annulled, has the right to demand from the guardian these monetary damages. However, these obligations are not reflected in the Criminal Code of Ukraine. So, an addition to Section $XIII^{-1}$ is proposed. Restrictive measures should be supplemented by Article 91^{-2} and should be applicable to persons who did not fulfil their child care responsibilities (see below).

The international experience can be illustrsated by the United Kingdom's "Claire Act" that helps determine a person's previous behavior regarding domestic violence. It is possible to create a database of persons who evade their child protection responsibilities, including not only parents, guardians and custodians but also other persons who are responsible for the childhood protection (teachers, educators).

Conclusions and Recommendations

To sum up, it is necessary to adopt the laws to protect childhood and combat the

following social phenomena:

- the underdevelopment of juvenile justice;
- the lack of sufficient family-type homes and centers that could provide protection for adolescents and the lack of state funding for socialization programs for children who have been victims of non-compliance with child protection responsibilities by parents or other responsible persons;
- the lack of modern legal mechanisms for detection, prevention of non-performance of child protection responsibilities;

Given the above mentioned factors, it is proposed:

1. to create social centers for children who have become victims of non-performance or improper performance of child protection responsibilities at the state and regional levels;
2. to introduce a state register of children who have become victims of non-performance or improper performance of child care responsibilities, which includes information on bringing the parents (persons replacing them) or persons who are assigned with these responsibilities to administrative responsibility. If there are three or more cases of non-fulfillment or improper fulfillment of child protection responsibilities, it is proposed to initiate the restriction or deprivation of parental rights.
3. to address the issue of providing social benefits to children who have suffered from non-performance or improper performance of child protection responsibilities at the legislative level.

That is why, according to the authors, the state needs to make efforts to encourage citizens with high victimization level to work, such as children from low-income, single-parent or large families, and children who are registered with law enforcement agencies. Furthermore, on the basis of the analysis, the following criminal- and legal-orientatred changes to the legislation are proposed:

1. It is necessary to formulate a separate section in the new law on criminal liability, which will directly protect childhood and the family. In this way the pre-trial investigation authorities will treat the object (generic) of criminal offenses more carefully.

2. To unify the Art. 137 and the Art. 166 of the Criminal Code regarding the understanding of the consequences. The Art. 137 of the Criminal Code provides for the consequences in the Part 1 if a criminal offense caused significant damage to the victim's health, and in the Part 2 if it caused the death of a minor or other serious consequences. Instead, the Art. 166 provides for the infliction of serious consequences. However, it is not clear how the legislator distinguishes between significant harm and serious consequences. In addition, the Art. 166 does not provide for death along with serious consequences, whereas in the Part 2 of the

Art. 137, the criminal offense may alternatively have consequences in the form of death or serious consequences. The criterion is quite ambivalent because the Judge and the investigator may consider the same consequences differently. So, there is a need for unification, which could be enshrined in the notes to the article, in order to eschew the errors in qualification.

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Table 1. The results of the survey of teachers concerning informational and practical work on the detection and prevention of child abuse, malicious non-performance of child protection responsibilities and bullying (%, 234 persons)

No.	Questions	Survey results (%)
1.	Are you aware of relationships in your students' families?	
	1) Yes	74,35
	2) No	25,65
2.	Have your students addressed you with the problems of domestic violence?	
	1) Yes	35,85
	2) No	64,15
3.	If 'yes', have your children explained that they need…?	
	1) help	66,5
	2) advice	13,85
	3) to be listened to	11,5
	4) no answer	
	5) all	8,15
4.	Have you tried to assist your students when they asked for help?	
	1) Yes	48,5
	2) No	8
	3) No answer	43,5
5.	If you tried to help the, what kind of assistance have you provided?	
	1) Addressing a social care teacher	7
	2) Addressing the school administration	13
	3) Addressing ther police	2,75
	4) Communication with parents	28,25
	5) Addressing the office of children's services	5,35
	6) No answer	38,5
	7) 4,5	5,15
6.	If you did not help them, indicate why:	

	1) Abuse was insignificant	x
	2) There is no hope for help	x
	3) You are indifferent to the students' family problems	x
	4) You are afraid to aggravate the situation	x
	5) Abuse was insignificant	5,15
	6) You believe that there was no abuse, but a student want to attract attention	8,15
	7) You believe that it is impossible to avoid small conflicts and quarells in the family, so it is not a deviance from a norm	x
7.	What are the main reasons of domestic violence?	
	1) Alcoholism / drug addiction of parents	18,75
	2) Unemployment, household dissatisfaction	10,85
	3) Personal enmity	8,15
	4) Low educational and cultural levels	22,5
	5) Child's uncontrolability	6,15
	6) Abuse is considered a traditional way of parenting	0,5
	7) 1,4,6	19,5
	8) 1,2	10,25
	9) 1,2,4	2,5
	10) 1,2	41,15
8.	What should be done in order to protect children from improper performance of child care responsibilities?	
	1) To increase the parents' level of knowledge on child abuse	6
	2) To increase the level of legal knowledge	5,25
	3) To hold trenings on childrens' upbringing with parents	17,95
	4) To boost the level of psychologicsal support for children and families	3
	5) To publish more materials about the prevention of child abuse	4
	6) We do not have such a problem	2,55
	7) Other_____	x
	8)1,2,3	33,5
	9)1-5	30,75
9.	Indicate what features are characteristic of children who suffered from	

	domestic violence	
	1) Aggressiveness	28,65
	2) Unsociability	4,25
	3) Sadness	2,25
	4) Irritability	12,85
	5) Tranquility	1,5
	6) Fear	13
	7) Depression	4,5
	8) Other_____	7,5
	9) 1,2,4,6,7	12,5
110.	Indicate what age group suffers abuses	
	1) 6-10 year old	38,75
	2) 10-14 year old	30,65
	3) 14-18 year old	13,15
	4) 1,2	9,8
	5) All	7,65
11.	Psychological abuse usually occurs in such families:	
	1) Single-parent families	5,85
	2) Dysfunctional families (alcoholic parents, low-income families)	73,5
	3) Well-to-do high-income families	6,15
	4) Young parents	7,15
	5) It is difficult to identifu one category	5
12.	Are there children among your students who present all symptoms of suffering from psychological abuse even if they did not tell you about that?	
	1) Yes	32,35
	2) No	61,75
	3) I have not paid attention	5,9
13.	Have you tried to investigate the reasons of a child's behavior that points at his being a victim of psychological abuse?	
	1) Yes, with the help of the game	8,85
	2) Yes, with the help of the survey and establishing contact with a child	35,25
	3) No, because I did not see any feature of abuse	11,75
	4) No, because this problem is within the competence of specialists	5,85

	5) Other_____	36,15
	6) No answer	2,15
14.	Have you ever witnessed psychological abuse, bullying towards the students at school?	
	1) Yes	51,5
	2) No	48,5
15.	Have your students asked for your help regarding psychological abuse towards them by other students (high-school students) at school?	
	1) Yes	52,95
	2) No	47,05
16.	Psychological abuse (bullying) is carried out by children who live in the following types of families:	
	1) Single-parent families	11,5
	2) Dysfunctional families Неблагополучних сімей	47
	3) Well-to-do families	15
	4) Numerous families	6,5
	5) Other_____	3,5
	6) Bci	13
	7) 2,3	4
17.	Have your students told you about psychological abuse towards them on the part of other teachers?	
	1) Yes	31,5
	2) No	68,5
18.	If 'yes', How have you helped them?	
	1) Talking with colleauges	29,5
	2) Informing the school administration in order to impose disciplinary responsibility on the teacher	7
	3) Addressing the police	x
	4) Informing the parents	x
	5) Other _____	x
	6) No answer	63,5

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