

LEGAL REGULATION, FOREIGN EXPERIENCE, ADMINISTRATIVE AND CRIMINAL ASPECTS CRIMINALIZATION OF ACTIONS RELATED TO SEXUAL VIOLENCE AGAINST A CHILD

Nataliia Yuzikova

Doctor of Science of Law, Professor
Professor of the Department of Administrative and Criminal Law,
Oles Honchar Dnipro National University. Dnipro, Ukraine.
ORCID: <https://orcid.org/0000-0003-0879-2228>
e-mail: yuzikovans@ua.fm

Svitlana Khomiachenko

Candidate of Legal Sciences, Associate Professor
Associate Professor of the Department of Law,
Vinnytsia Institute of Trade and Economics of State University of Trade and Economics, Vinnytsia,
Ukraine.
ORCID: <https://orcid.org/0000-0002-1223-5881>
e-mail: s.homiachenko@vtei.edu.ua

Olena Lakhova

Candidate of Legal Sciences, Associate Professor
Associate Professor of the Department of Administrative and Criminal Law,
Oles Honchar Dnipro National University, Dnipro, Ukraine.
ORCID: <https://orcid.org/0000-0001-7192-492X>
e-mail: lav1982@meta.ua

Galyna Muliar

Doctor of legal sciences, professor of the department of criminal law, process and Forensics,
Academy of Labor, Social Relations and Tourism, Kyiv, Ukraine.
ORCID: <https://orcid.org/0000-0003-2636-0509>
e-mail: box0007@meta.ua

Oleksandr Holovkov

PhD in Law, Lecturer of the department of tactical and special training of Faculty No. 2,
Donetsk State University of Internal Affairs. Ukraine.
ORCID ID: <https://orcid.org/0009-0005-4649-539X>
e-mail: a.golovkov@ukr.net

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ABSTRACT

The article is devoted to the problems of protecting a child from sexual violence by criminal legal means, namely: by criminalizing unlawful acts in accordance with international principles, directives and framework decisions of the European Union. To achieve this goal, general scientific and special scientific research methods were used, in particular formal-logical, statistical, systematic, comparative-legal methods. The works of the scientists who were engaged in this topic were analyzed. Within the framework of research, a legal analysis of international norms (conventions, directives, draft decisions of the European Union),

ECHR decisions aimed at protecting rights of the child from sexual violence and their implementation in the new paradigm of the national criminal law was carried out. In the article, the analysis of the legislative framework for the protection of children rights and a new version of the Criminal Code of Ukraine is presented, which criminalizes acts of sexual nature against a child, the responsibility for distribution of porn content among minors (production and circulation of pornography, access to child pornography, etc) is strengthened). The importance of receiving the services of international consultants in the field of protection and observance of children's rights during the war and in the post-war period was noted.

Keywords: Sexual violence; criminalization; child pornography; sexual education; international norms.

REGULAÇÃO LEGAL, EXPERIÊNCIA ESTRANGEIRA, ASPECTOS ADMINISTRATIVOS E PENAS CRIMINALIZAÇÃO DE AÇÕES RELACIONADAS À VIOLÊNCIA SEXUAL CONTRA CRIANÇA

RESUMO

O artigo é dedicado aos problemas de proteção de uma criança contra a violência sexual por meios legais penais, nomeadamente: criminalizando atos ilícitos de acordo com os princípios, diretivas e decisões-quadro internacionais da União Europeia. Para atingir esse objetivo, foram utilizados métodos de investigação científica geral e científica especial, em particular métodos lógicos formais, estatísticos, sistemáticos e jurídicos comparativos. Foram analisados os trabalhos dos cientistas que se dedicaram ao tema. No âmbito da investigação, foi realizada uma análise jurídica das normas internacionais (convenções, diretivas, projetos de decisão da União Europeia), decisões da CEDH destinadas a proteger os direitos da criança contra a violência sexual e a sua implementação no novo paradigma do direito penal nacional realizado. No artigo, é apresentada a análise do quadro legislativo para a proteção dos direitos das crianças e uma nova versão do Código Penal da Ucrânia, que criminaliza os atos de natureza sexual contra uma criança, a responsabilidade pela distribuição de conteúdo pornográfico entre menores (produção e a circulação de pornografia, o acesso à pornografia infantil, etc.). Foi salientada a importância de receber os serviços de consultores internacionais no domínio da proteção e observância dos direitos das crianças durante a guerra e no período pós-guerra.

Palavras-chave: Violência sexual; criminalização; pornografia infantil; educação sexual; normas internacionais.

1 INTRODUCTION

The future of any society and all mankind depends on the level of spiritual, moral and physical development of the younger generation, their understanding of the role and significance of human rights in the life of individuals and society, as well as responsibility for their fate and actions. Respect for human rights begins with the attitude of society towards the child. This means child rights and their provision depend on a conscious, purposeful state

policy at the European, national, regional and local levels and the activities of non-governmental public organizations that unconditionally recognize the self-worth of the childhood, their specific interests and needs, and create necessary socio-economic and political conditions for their life and acceptable socialization.

On June 23, 2022, the leaders of 27 EU member states decided to grant Ukraine the status of a candidate for EU membership. Within the legal framework, the European integration vector of the Ukraine's development was fixed, which our society continues to fight for under martial law.

Ukraine is moving along the path of democratic transformation, protection of human and civil rights and interests. On the one hand, certain opportunities have opened up for the country, and on the hand, this requires a responsible attitude to the obligations assumed, especially in protecting interests of the child from criminal encroachments. Status of a candidate requires appropriate adaptation of the national legislation to "acquis communautaire" of the European Union.

In view of the above, the need for a comprehensive study of the problems of criminalization of acts related to sexual violence against a child in accordance with "acquis communautaire" of the European Union.

The article will address the problem of protecting the child from sexual violence by criminal legal means, namely by criminalizing illegal acts in accordance with international principles, provisions of directives and framework decisions of the European Union. Taking into account the above, the purpose of the article is the legal analysis of international norms (conventions, directives, framework decisions of the European Union), decisions of the ECHR aimed at protecting rights of the child from sexual violence and their implementation in the new paradigm of the national criminal law.

2 METHODOLOGY

In the study, the methods are used that meet the purpose of the article and are based on a dialectical-comparative platform necessary and sufficient to reveal the European integration vector of the Ukraine's development in the field of the child protection against sexual violence in accordance with the EU "acquis communautaire" standards.

In particular, the formal-logical method is used in the study of the content of legal norms that provide responsibility for committing sexual sexual violence against a child, comparative-legal – by the analysis of the criminal legislation of the European Union and

Ukraine, which provides for responsibility for child trafficking, child prostitution and child pornography, statistical when summarizing the data from statistical materials of the General Prosecutor Office of Ukraine, the Judiciary, the National Police of Ukraine, the Ministry of Social Policy on quantitative indicators of sexual violence against a child; praxeological method – using the ideas of praxeology in the methodological training of specialists in sexual education and protection of sexual freedom and inviolability for children of different age categories; system method – is to systematize and generalize the source base of the study. Using the predictive method, proposals were made to improve the legislation of Ukraine in the field of protecting children from sexual violence by criminal means.

3 LITERATURE REVIEW

General theoretical issues of criminalization of the acts related to sexual violence against a child in accordance with “*acquis communautaire*” of the European Union are given considerable attention in the works of many scientists.

Khavronyuk, within the framework of the study of the criminal legislation of the counties of continental Europe, quite thoroughly considered the issues of regulating criminal liability for sexual crimes against minors (Khavronyuk, 2006).

Gatselyuk in his research “Criminalization of socially dangerous acts during the operation of the Criminal Code of Ukraine of 2001: recent stories against the background of the general palette of legislative decisions” analysed trends in criminalization of socially dangerous acts, the social context against which it took place, and the problems that arose as a result of dynamic-making activities in the field of criminal law (Gatselyuk, 2021).

Golovko and other authors have studied the history of the legislation formation on the prevention and protection against domestic violence in Ukraine, as well as the features of judicial protection of victims of domestic violence in individual countries, legislative support for this type of protection, and legislation in the field of countering domestic violence (Golovko *et al.*, 2023).

Riabchynska O.P. in her works considered harmonization directions of the domestic criminal legislation on the prohibition of the distribution of child pornography with international legal standards in the protection of children rights from sexual exploitation and use in the porn business, taking into account the latest changes and amendments to Article 301 of the CC of Ukraine (Riabchynska, 2010).

In addition, certain aspects of the problem of protecting children from violence and

other illegal actions during hostilities were the subject of research of such scientists and international lawyers as: M. Antonovych, M. Gnatovsky, A. Matsko, A. Pshenychna, V. Repetytsky, O. Shevchneko-Bitenska and others.

Despite active study of the problem of protecting children from sexual violence in Ukraine, the issues of criminalization of the acts related to sexual violence against a child in accordance with “*acquis communautaire*” of the European Union has not been studied separately.

4 RESULTS AND DISCUSSION

In available scientific works, these aspects were covered either fragmentally or within a much broader problem. These scientific works were also submitted to the scientific community prior to amendments to the Criminal Code of Ukraine in accordance with the Lanzarote Convention.

The effectiveness of the Ukraine’s entry into the European Union depends on the quality of reforming those legal institutions that are designed to ensure proper legal protection of the rights and freedoms of the child from criminal encroachments, including sexual protection. A significant component of this process in the criminal law aspect is the streamlining of the criminal legislation of Ukraine in accordance with “*acquis communautaire*” of the European Union. This process should take place in two directions, namely, first, in the humanization of the criminal legislation of Ukraine and the search for alternative measures of the impact of criminal law aimed at general and special prevention, elimination of the factors and acts that determine it, and secondly, the application of strict measures, including criminal law, to the persons who committed criminal offenses against a child, endanger the most important values and interests of the child.

Violence against children is any intentional, unlawful act or omission or threat of using an action or an omission of a psychological, economic, physical, sexual nature against a child in or out of the family, if these actions or omissions cause moral or material damage, harm to physical, mental health, moral development of the child, including systematic violence (physical, psychological economic, sexual) of some children over others, committing violence in any form in the presence of the child (Lesko, 2019)

Sexual violence against children is a shameful phenomenon that occurs in all countries of the world. They are considered by the international community to be one of the worst forms of violence against a child. Sexual violence against children can take various forms;

occur in a real or virtual dimension; in a circle of people whom the child knows and trusts well (family, peers). Conflicts, violence, humiliation, neglect that accompany the minor at different stages of its socialization within the family, further lead to the break with the family (Yuzikova *et al.*, 2021).

The increase in sexual violence against a child, including the actualization of child pornography, is a problem that has become acute in recent years in Ukraine, due to the education deformation, pseudo-democracy in sexual relations. I. Venedyktova (in the report of 01.06.21), with reference to the Internet Watch Foundation data, noted that Ukraine is one of the top three countries that provide child pornography. According to the General Prosecutor Office, the number of offenses against sexual freedom and inviolability increased by 21% in 2021. Of these, every fourth case of sexual violence against a child, in 60% of cases, the victims are children under 14 years of age (Venedyktova, 2021).

During 7 months of 2023, 1,943 criminal proceedings were opened, including: under art. 301 CC of Ukraine (Import, production, sale, distribution of pornographic objects) – 699 and art. 301-1 CC of Ukraine (Access to child pornography, its acquisition, storage, import, transportation or other premises, manufacture, sale and distribution) - 1244. At that time, of 699 proceedings were opened for the import, manufacture, sale and distribution of pornographic objects, then almost twice as many cases were opened for porn content related children – 1244 proceedings. This indicator is higher than the number of similar proceedings in 2022, when 1,880 cases were taken in to account, of which: art.301 CC of Ukraine — 785 and under art.301-1 CC of Ukraine — 1095 (Statistics of Prosecutor General Office).

The issue of domestic violence, especially sexual violence, in Ukraine during martial law has not lost its relevance. At the same time, the armed conflict exacerbates the problem of violence against a child, which turns out to be the most unprotected and affects the dynamics of the indicators of committing violent acts against children. At the same time, it is not possible to provide an objective analysis of the data because part of the territories of Ukraine is under occupation, and in the de-occupied territories these issues are not given due attention, and information about children who for various reasons were abroad is not available for criminological analysis and response. Thus, according to the PGO data for 2020, the number of victims of criminal offenses related to domestic violence is 199 people (80 –adults, 119 - minors). In 2021, this figure is 419 children who suffered from domestic violence (192 – adults, 227 – minors). And for 7 months 2023, 288 victims of domestic violence (123 – minors, 155 – small children) were registered (Statistics of PGO, 2020-2023).

As can be seen from Statistics, the lion's share of victims are minors-children under 14

years old. This should be taken into account when developing the measures to protect children from sexual violence. It is advisable to fully use the services of international consultants in the field of protection and observance of children's rights during the war and in the post-war period in accordance with the CE Project "Protection of children's rights during the war and in the post-war period in Ukraine" (Council of Europe office in Ukraine.).

Carrying out a detailed criminological analysis of the facts of violation sexual freedom and inviolability of the child and acts in the field of juvenile morality, it is necessary to note positive changes over the past two years in allocation of statistical indicators of the individual content in this area. Thus, according to the PGO data, in addition to domestic violence, there are categories of victims of the acts that are object of our research. These are: children who suffered (minors, small children) from sexual violence (art. 153 CC of Ukraine), committing sexual acts with a person under the age of sixteen (art. 155 CC of Ukraine), corrupting the minors (art.156 CC of Ukraine), harassing a child for sexual purposes (art. 156-1 CC of Ukraine).

Today, there are not isolated facts of sexual violence against children who were forced to leave Ukraine, attracting them to participate in the porn business. Thus, relatives who stay in Ukraine for the protection of their children who left with their mothers and other guardians apply to law enforcement agencies. For example, relatives receive information from a child through various messengers that they became victims of various sexual crimes, take nude photos, and in Ukraine there is no mechanisms for cooperation with relevant departments in other countries to verify this information, because it can be an invention of the child, a desire to take revenge on parents, or real actions that violate the child's sexual freedom and inviolability. Therefore, it is important, firstly, to obtain the services of international consultants in the field of protection and observance of child rights during the war and in post-war period; secondly, to establish international cooperation between national and foreign specialized law enforcement agencies that carry out measures in preventing sexual violence against a child and countering child pornography, thirdly, to coordinate and effectively interact with specially authorized bodies that take measures in preventing sexual violence against a child and countering child pornography.

This requires the formation of modern effective approaches to the system of countering offenses and protecting the child from sexual violence in the content of modern challenges and threats, especially those related to the use of information and telecommunication systems or technologies on the basis of a detailed, objective criminological analysis of the relevant statistical data.

A peculiarity of the modern information environment based on Internet technologies, lies in their influence on the social behaviour of the child and acts as a special form of cyber violence (cyber bullying, cyber harassment, cyberstalking, porn revenge, etc.) In the ECHR decision (in case *Volodina v. Russia*, 2019) on revenge porn and cyberstalking, the court recognized that Internet violence is a form of violence against a person (*Volodina v. Russia*, 2019). In addition, the court recognized that cyber violence is closely related to offline violence in life and is another aspect of domestic violence. Also, the ECHR decision notes the duty of the state to protect the individual from cyber violence.

The National Policy of Ukraine in the field of child protection from sexual violence is based on international rules, principles, takes into account EU directives, framework decisions and directs the reform vector of changes in the legislation in accordance with “*acquis communautaire*” of the EU. This contributes to the formation of new approaches, principles of humane, constructive and effective treatment of minors, the creation of appropriate conditions of acceptable socialization of the child and the formation of a safe juvenile environment.

In the process of determining the priority decisions of the national policy in the field of protection of rights and interests of the child, it is necessary to take into account international conventions, resolutions, directives, framework decisions, which are theoretically and practically significant for the Ukrainian law-making and law enforcement system and that propose appropriate program measures to create a safe environment for acceptable juvenile prevention. It is also important to consider those international provisions that are fully consistent with the basic principles of the Ukrainian legal system and are objectively aimed at the effective preventing and countering juvenile delinquency in Ukraine. At the same time, the historical sequence should remain unchanged, based on the established traditions of the Ukrainian people and the national legal culture, both in social and personal aspects. This does not change the state policy vector on the prevention of crimes among minors, but forms a reliable basis that has a national colouring, clear ideological and cultural components (Kobrusieva *et al*, 2021).

The main thing by implementing international norms and standards is to preserve the national interests of Ukraine, which is possible if the originality of means for protecting rights and freedoms of the child in Ukraine is preserved; measures to prevent and counteract juvenile delinquency; its own system of juvenile criminal justice, which reflect the economic, political, ideological, religious, cultural and educational features and identity of Ukraine.

The need for international legal regulation of the children treatment has emerged relatively recently. Disastrous consequences of the World War First on the civilian population

and the growing interest to the issue of child protection in most countries of Europe and North America caused the creation of the *Committee of Child Welfare* by the League of Nations in 1919, and the Committee's activities are aimed at combating the spread of the child homelessness and child trafficking. During the interwar period, non-governmental organizations played a significant role in the development of norms for protection of child rights (Villasmil Espinoza *et al.*, 2022). Thus, the International Union for saving children was founded, within which framework a declaration was developed that contained the basic conditions that society must adhere to the protection of children. The Geneva *Declaration of Child Rights* of 1924 established for the first time at the international level the need for special protection of children as the most important group of population (*Declaration of Child Rights, 1924*). However, at that time the world society did not have any effective organizational structure for the implementation of goals proclaimed by the Declaration (Mariëlle *et al.*, 2021).

The international community, while attaching great importance to the rights of children, their survival, protection and development, and directing its actions in the highest interests of humanity, is trying to ensure well-being of children in the whole world. But the efforts to provide a socially acceptable space for the child's development and well-being have not been fully implemented. Overall achievements are not consistent with national and international obligations. Based on this, the *World Declaration and Plan of Actions "A World Fit for Children"* (hereinafter – Declaration and Plan of Action), adopted by the Resolution S-27/2 of the UN General Assembly on May 10, 2002, refers to important international obligations of the 90-s of the previous century (*World Declaration and Plan of Action "A World Fit for Children", 2002*).

The main provisions are implemented in legislation and law enforcement practice, and the implementation is constantly monitored. Annual reviews are conducted at the national level and progress reports are submitted by the UN General Assembly.

The Declaration and Plan of Actions set out criteria for determining a world fit for children. These include: opportunity to get best possible conditions at an early age and have access to quality basic education, including primary education, which is mandatory and free of charge; availability of extensive opportunities to develop their individual abilities in a safe and acceptable environment (Tylchych *et al.*, 2022). The Declaration and Plan of Actions is aimed at ensuring favourable physical, mental, spiritual, social, economic, cognitive and cultural development of the child as a priority area of national and global actions.

The Optional Protocol to the Convention of Child Rights on the trafficking of children, children prostitutions and children porn (hereinafter – the Optional Protocol) is

aimed at protection and harmonious development of the child and the implementation of modern measures to be taken by member states to guarantee protection of the child against the practice of the child trafficking, child prostitution and child pornography (*Optional Faculty to the Convention on Child Rights on the Child Trafficking, Child Prostitution and Child Pornography*).

Implementation of the main provisions of the Optional Protocol will contribute to the adoption of the optimal and universal approach that takes into account that factors that determine the development of trafficking children, child prostitution and child pornography, including insufficient social development, impoverishment of population, economic imbalances, unequal socio-economic structure, low level of education, presence of dysfunctional families, migration, gender discrimination, irresponsible sexual behaviour of adults, armed conflicts and child smuggling (Leheza *et al.*, 2022).

Special scientific-practical attention should be paid to Directive 2011/36/EC of April 5, 2011 on preventing and combating trafficking in human beings and protecting its victims, and on the replacement of the Council Framework Decision 2002/629/JHA (*Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims, 2011*), which states that “children are more vulnerable than adults, therefore, they have a higher risk of becoming victims of human trafficking. By applying this Directive, the best interests of the child should be paramount, in accordance with the EU Charter of Fundamental Rights and the UN Convention of Child Rights of 1989” (Leheza *et al.*, 2020).

The next international legal act relating the subject of the article is Directive 011/92/EC of December 13, 2011 on combating sexual violence and sexual exploitation of children and child pornography and replacing the Council Framework Resolution 2004/68/JHA (*Resolution 2011/92/EC of December 13, 2011 on combating sexual violence and sexual exploitation of children and child pornography, 2011*). The Directive sets up minimum rules for the definition of criminal offenses and sanctions for sexual abuse and sexual exploitation of children, child pornography and involvement of children for sexual purposes. The document also contains the provisions to strengthen measures to protect victims of sexual violence and prevent these criminal offenses (Horbalinskiy *et al.*, 2021).

The Council Framework Decision 2004/68/JHA of December 22, 2003 on combating sexual exploitation of children and child pornography (*Council Framework Decision 2004/68/JHA on combating sexual exploitation of children and child pornography, 2003*) forwards the legislation of member states to criminalize the most serious forms of child sexual

abuse and sexual exploitation, expands domestic jurisdiction and provides a minimum level of assistance to victims. The Framework Decision 2001/220/JHA of March 15, 2001 on the status of victims in criminal proceedings, establishes a set of rights of victims in criminal proceedings, including the right to protection and compensation. In this context, it should be noted that the right to protection and compensation is reflected in relevant ECHR decisions. Thus, in case *C.A.S. AND C.S. v. ROMANIA* regarding evasion from an effective investigation into sexual violence against a child (*Case of C.A.S. and C.S. v. Romania*). The case states that an adult man sexually assaulted a seven-year-old boy, showed a knife, threatened to kill the child if he told something about what had happened. Sexual assault lasted for several months (Zadyraka *et al.*, 2023). When the child's parents found out about the crime, they reported it to the police and the investigation began. Witnesses confirmed that the man was near the child and went to the apartment. Two medical examinations revealed numerous injuries to the child that were caused as a result of sexual violence. The investigation was suspended three times. The suspect was detained and taken to court, but acquitted. Domestic courts found that the parties and witnesses had given conflicting statements and the parents had contacted the police after a lengthy period of time. The courts also noted that the applicant had not given an accurate description of the facts and had been prone to fantasy. The European Court of Justice found that despite the victim's particular vulnerability, the investigation was not effective and urgent (it lasted almost 5 years). A medical examination was ordered only three weeks later, and the suspect was questioned two months later. The concern was caused by the fact that domestic courts drew attention to the fact that the family didn't immediately contact the police, but ignored the duration of the investigation, did not compare the facts, did not take into account the psychoemotional state of the seven-year-old boy. The European Court of Justice notes that, under article 3 and article 8 of the Convention, have an obligation to ensure effective criminal investigation of cases concerning violence against children, giving priority to their best interests (Leheza, 2022). Taking into account the case file, the victim never used the advice or support of a qualified psychologist during the rape trial or later. The failure to respond adequately to allegations of sexual abuse of a child raises doubts about the effectiveness of the juvenile system (Halaburda *et al.*, 2021). Therefore, the authorities had failed to carry out an effective investigation and to ensure adequate protection of the child's personal and family life. Taking into account the case file, Romania was ordered by the ECHR to pay the applicant compensation for non-pecuniary damage in the amount of EUR 15,000.

It should be noted that any child can become a victim of sexual violence, regardless of

age, gender, cultural or social affiliation, since children do not yet have the experience and knowledge necessary to understand or explain what is happening to them. Since child sexual abuse is usually a crime that is carefully hidden by both the victim and the environment, its real scope is difficult to assess (Kovalska, 2018).

Coordination of prosecutions in cases of sexual abuse, sexual exploitation of children and child pornography will contribute to the implementation of the Framework Decision 2009/948/JHA of November 30, 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal cases (*Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceeding, 2009*). Provisions of the Framework Decision correlate with Article 34 of the UN Convention of Child Rights (*UN Convention of Child Rights, 1991*), which states that the parties undertake to protect the child from all forms of sexual exploitation and sexual violence. Moreover, the Convention emphasizes the adoption of preventive measures against three types of criminal behaviour, namely: inducing or forcing the child to engage in any illegal sexual activity; use of children for the purpose of exploitation or prostitution or other illegal practices; use of children for the purpose of exploitation in pornography or pornographic materials (Leheza *et al.*, 2021).

The Stockholm Program — open and safe Europe that serves and protects citizens (2010/c 115/01) (*The Stockholm Program, 2010*) highlights the field of child protection, namely the principle of the best interests of the child. This vector concerns the right of the child to life, survival and development, non-discrimination and respect for the right to express one's opinion and to be truly heard in all matters concerning children, in accordance with age and level of development, which were proclaimed in the Charter of Fundamental Rights of the European Union and the UN Convention of Child Rights, and relate to all EU policies. The European Council calls on the Commission to identify the measures that the EU can take to protect and promote rights of the child. At the same time, attention is focused on the protection of various categories of children, namely:

- those who are in particularly vulnerable conditions;
- those who are victims of sexual exploitation and abuse;
- those who are victims of human trafficking;
- unaccompanied minors in the context of the EU migration policy.

The strategy of the Council of Europe on the child rights (2022-2027) aims to cover all categories of human rights, as well as outline the goals and priorities of human rights, and outlines the goals and priorities of the Council of Europe and its member states to protect the

rights of children and make these rights as reality for all children through six priority areas of the activity for the period of 2022 till 2027 (Strategy, 2022).

At the national level, it is appropriate to adopt the comprehensive strategies for effective promotion and protection of the child rights, in accordance with aforementioned strategy of the Council of Europe on the rights of children and for the harmonization of a common vision and development of a common coordinate system with specific and time-limited goals for the child protection from sexual violence (Zhukova, 2023).

The EU Convention on the child protection from sexual exploitation and sexual violence (the Lanzarote Convention) was developed as a comprehensive tool for a common national response to all forms of sexual abuse of children. It contains recommendations for addressing the problem of countering sexual violence against a child by strengthening the national regulatory framework and engaging civil society and other relevant stakeholders to improve the authorities' response to all forms of sexual violence against children (*Convention of the EU Council on the child protection from sexual exploitation and sexual violence*, 2012).

The Law of Ukraine on amendments to certain legislative acts of Ukraine concerning the implementation of the Convention of EU Council on the protection of children from sexual exploitation and sexual violence (the Lanzarote Convention) of 18.02.2021 establishes criminal legal forms of the child protection of a child from sexual abuse (Odyntsova et al, 2021). The law states that sexual exploitation of children, in particular the forms of child pornography and prostitution, as well as all other forms of sexual violence against children, including acts committed abroad, are destructive to children's health and psychological development (*The Lanzarotta Convention*), 2021). Most often, children between the ages from 9 to 13 were involved in creating sexual content. Criminals take advantage of the vulnerable state of children. Such criminal offenses are committed for sexual and self-serving reasons. Consumers of pornographic content have a sexual motive. Creation and distribution of the content containing child pornography using information and communication systems or technologies is most often carried out by organized criminal groups for selfish reasons. Organized criminal groups have a clear hierarchical structure, which includes as follows: organizer; recruiters; directors; performers; distributors of pornographic content (Knyzhenko, 2022).

5 CONCLUSIONS

Compliance with international norms and principles, acquisition of a new status by

Ukraine requires appropriate political will and readiness to update national legislation, reform social institutions that ensure stable development of the state, protect the rights of minors and modernize the system of preventing illegal actions against them.

Summing up, it should be noted that the European integration process concerns the adaptation of the national legislation to the main provisions of the EU Conventions, Programs, Directives and Framework Decisions, which, among other things, relate to the protection of the child from sexual violence and sexual exploitation. At the same time, it should be noted that despite a high level of the legal regulation in the national legislation of the child protection from sexual violence and sexual exploitation with the consolidation of the basic principles of sexual morality, the level of sexual education for children of different age categories remains unsatisfactory. Taking into account foreign experience of an effective and responsible level of sexual education, it is advisable to start from early ages of a child's life.

The value of international experience in the formation of the measures system to prevent sexual violence lies in the possibility of coordination and effective international cooperation between national and foreign specialized law enforcement agencies that prevent sexual violence against a child and child pornography, obtaining services from international consultants in protecting and observing the child rights during the war and in the post-war period.

The main areas of preventive measures include as follows: raising the awareness level of the population about the forms, manifestations, causes and consequences of sexual violence against a child; forming an intolerant attitude to various models of sexual violence against a child in society, spreading child pornography, caring for victims, awareness of juvenile sexual violence and porn context as a violating children rights; forming a model of sexual education for children of different age categories ensuring coordination and effective interaction of specially authorized bodies that carry out the measures in the field of preventing sexual violence and countering child pornography, other bodies and institutions that perform the functions related to the implementation of the events in the juvenile sphere; providing a child affected by sexual violence with access to comprehensive services focused on his needs; providing access to general and specialized support services for victims to receive affordable, high-quality social services, medical, social, psychological assistance, access to justice and other legal protection mechanisms; training and improving the level of professional competence of subjects implementing the measures in the field of preventing sexual violence and countering child pornography.

A positive experience and a step towards the implementation of directives, framework

decisions and the Convention on the protection of child rights should be considered the criminalization of acts of a sexual nature against a minor; child pornography; involving a child in a spectacular event of a sexual nature, including with the use of information and telecommunication systems or technologies; child harassment for sexual purposes.

It is necessary to develop a national strategy for the child protection from sexual violence and sexual exploitation, in the formation of which it is important to take into account the CM/Rec (2018)7 Recommendation of the Cabinet of Ministers to member states on the principles of observing the protection and implementation the rights of children in a digital environment.

There is a problem of protecting children who were taken out of Ukraine to avoid sexual violence. This requires legislative regulation of the mechanism for urgent verification of information and adoption of urgent security to protect the child. Moreover, it is necessary to establish international cooperation and receive services of international consultants in the field of protection and observance of children's rights during the war and in the post-war period. It is advisable to use the services of international consultants by protection and observance of child right during the war and in the post-war period in accordance with the Project "Protection of child rights during the war and in the post-war period in Ukraine" of the Council of Europe.

It is important to preserve national interests of Ukraine in implementing international norms and standards. It is possible if the originality of the means of state protection and protection of rights and freedoms of the child in Ukraine, including from sexual exploitation and sexual violence, is preserved; formation of modern, effective measures and new methods of preventing and countering sexual violence against a child, reflecting economic, political, ideological, religious, cultural and educational features and identity of Ukraine.

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