

Forms of Guilt and Issues of Criminal Liability in Crimes of Domestic and Family Violence

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Abstract: This article examines the forms of guilt and issues of criminal liability arising in crimes of domestic and family violence. Particular attention is paid to the legal characterization of intentional and other forms of guilt, the determination of the offender's mental attitude toward the committed act and its consequences, and the circumstances relevant to the proper qualification of violent acts. The study analyzes the relationship between domestic and family violence and the applicable provisions of criminal law, taking into account the specific nature of relationships between offenders and victims within the family and household environment. It also considers factors affecting criminal liability, including the nature and severity of violence, repeated or systematic conduct, consequences for the victim, and other legally relevant circumstances. The article emphasizes the importance of accurate determination of the form of guilt for the correct legal qualification of the offense and for ensuring an individualized and legally justified approach to criminal liability. The findings may contribute to improving investigative and judicial practice in cases involving domestic and family violence and to strengthening the effectiveness of legal mechanisms for protecting victims.

Keywords: Domestic Violence, Family Violence, Forms of Guilt, Criminal Liability, Intentional Guilt, Criminal Offense, Legal Qualification, Victim, Offender, Criminal Law, Investigative Practice, Judicial Practice



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1. Introduction

Domestic and family violence represents a complex social and legal phenomenon that directly affects the safety, dignity, physical integrity, psychological well-being, and fundamental rights of individuals within family and household relationships. Unlike many other forms of violent criminality, domestic and family violence frequently occurs within relationships characterized by emotional, economic, social, or residential dependence. This specific context creates particular difficulties for law enforcement agencies, investigators, prosecutors, and courts in establishing the circumstances of an offense, determining the offender's mental attitude toward the act, and correctly assessing the form of guilt. Consequently, the legal response to domestic and family violence requires not only the establishment of the objective elements of the offense but also a careful examination of the subjective elements of criminal liability.[1]

The determination of guilt is one of the fundamental requirements of criminal liability. In criminal law, the legal consequences of an act depend substantially on whether the offender acted intentionally or through negligence, as well as on the nature of the offender's awareness and attitude toward the harmful consequences of the conduct. In cases of domestic and family violence, establishing these circumstances may be particularly complicated because violent behavior can develop gradually, involve repeated incidents, and occur against a background of interpersonal conflicts, threats, psychological pressure, economic dependence, or previous acts of violence. Therefore, the assessment of the offender's intention and awareness should be based on the totality of legally relevant evidence rather than on isolated statements or individual circumstances.[2]

The problem is also significant from the perspective of distinguishing domestic and family violence from other violent crimes. The presence of physical or psychological harm alone does not necessarily establish the specific legal nature of domestic violence. The relationship between the perpetrator and the victim, the circumstances in which the act was committed, the nature and duration of the violence, previous interactions between the parties, and the consequences of the conduct may all be relevant to its legal qualification. An accurate distinction is therefore necessary to ensure the correct application of criminal law and to prevent both underqualification and overqualification of criminal conduct.[3]

The effectiveness of criminal justice responses also depends on the quality of investigative and judicial practice. Investigators must establish not only what happened but also why and under what circumstances it happened, what the offender knew or intended, whether the conduct was isolated or repeated, and how the offender perceived the possible consequences. Courts, in turn, must evaluate the evidence comprehensively and determine whether the established facts correspond to the legal elements of the relevant criminal offense. These requirements make the study of guilt and criminal liability in domestic and family violence cases particularly important for contemporary criminal law and law-enforcement practice.[4]

The purpose of this study is to examine the forms of guilt and the principal issues of criminal liability in crimes involving domestic and family violence, with particular attention to the subjective elements of criminal offenses and their significance for legal qualification. The study also seeks to identify circumstances that may assist investigators and courts in establishing the offender's mental attitude toward the committed act and its consequences. Particular emphasis is placed on improving the consistency and legal accuracy of approaches to criminal liability in this category of cases.[5]

2. Methods

The study employs a combination of general scientific and special legal research methods to examine forms of guilt and issues of criminal liability in domestic and family violence cases. The methodological framework is based primarily on formal-legal, comparative-legal, analytical, systemic, and case-study methods, which make it possible to examine both the legal framework governing criminal liability and the practical circumstances relevant to the qualification of violent acts.

The formal-legal method is used to analyze the provisions of criminal law concerning guilt, intentional and negligent forms of criminal conduct, criminal liability, and offenses involving violence within family and household relationships. This method enables the identification of the legal elements of relevant offenses and the determination of the relationship between objective and subjective elements of criminal liability. Particular attention is given to the legal significance of the offender's awareness, intention, purpose, attitude toward the consequences of the conduct, and other circumstances that may affect qualification.[6]

The comparative-legal method is applied to distinguish domestic and family violence from other categories of violent crimes. The comparison focuses on the nature of the relationship between the offender and the victim, the circumstances of the offense, the character and intensity of violence, the presence of repeated conduct, and the resulting harm. This approach allows the study to identify distinguishing legal and factual criteria that can assist in determining the appropriate criminal-law

qualification.

The analytical and systemic methods are used to examine the interaction between the elements of a criminal offense and the circumstances establishing guilt. The conduct of the offender is analyzed as a system in which the objective act, consequences, causal relationship, circumstances of commission, and subjective mental attitude are interconnected. This makes it possible to avoid determining guilt solely on the basis of the existence of physical or psychological harm and instead assess the complete factual and legal circumstances of the case.[7]

A case-study approach is also applied to typical investigative and judicial situations involving domestic and family violence. Particular attention is paid to circumstances such as previous conflicts, repeated violence, threats, psychological pressure, economic dependence, the use of physical force, and the offender's conduct before and after the incident. These circumstances are considered as potentially relevant evidentiary factors for establishing the offender's intention, awareness, and attitude toward the consequences of the conduct.

The study further applies the method of legal interpretation to clarify the meaning and practical application of criminal-law provisions related to guilt and criminal liability. The interpretation of legal norms is considered together with the factual circumstances that investigators and courts must establish during criminal proceedings. On this basis, the research develops a structured approach to assessing subjective elements of domestic and family violence offenses and identifies methodological considerations that may contribute to more consistent investigative and judicial practice.[8]

The methodology combines doctrinal legal analysis with practical examination of criminal-law qualification issues. This integrated approach provides a basis for assessing the forms of guilt, determining their significance for criminal liability, and identifying circumstances that should be taken into account when investigating and adjudicating cases involving domestic and family violence.

3. Results and Discussion

The analysis demonstrates that determining the form of guilt is one of the central elements in the legal qualification of crimes involving domestic and family violence. The existence of violence itself does not fully determine the criminal-law characterization of an act. Investigators and courts must establish the offender's mental attitude toward the conduct, the foreseeable consequences, and the circumstances in which the act was committed. This requires a comprehensive assessment of both objective and subjective elements of the offense.[9]

The study indicates that intentional guilt is particularly significant in domestic and family violence cases. In many situations, the offender consciously performs an act capable of causing physical or psychological harm to the victim. The existence of intention may be established through the nature and intensity of the violence, the instrument or method used, statements made before or during the incident, previous threats, the sequence of actions, and the offender's behavior following the incident. At the same time, the existence of a conflict between family members should not automatically be interpreted as proof of a particular form of guilt. The factual circumstances must be established through admissible and reliable evidence.[10]

A significant finding concerns the distinction between direct and indirect intent. Direct intent may be relevant where the offender understands the nature of the conduct and seeks the resulting harmful consequence. Indirect intent may arise where the offender recognizes the possibility of harmful consequences, does not seek them as the immediate objective, but nevertheless consciously accepts their occurrence. The distinction is important because the subjective attitude of the offender may affect the legal qualification of the offense and the determination of criminal liability. Consequently, investigative practice should avoid relying exclusively on the offender's subsequent explanation of the incident and should examine the entire evidentiary context.[11]

The research also identifies difficulties associated with proving the subjective side of domestic

and family violence offenses. Unlike physical injuries, which may often be documented through medical evidence, intention, awareness, and attitude toward consequences are internal psychological elements and cannot normally be observed directly. They must therefore be established indirectly through objective circumstances. Evidence may include medical documentation, witness testimony, electronic communications, audio or video recordings obtained lawfully, previous complaints, protection-related documentation where legally relevant, forensic examinations, and other admissible evidence. The evidentiary value of each source should be assessed individually and in combination with the remaining evidence.

Another important result concerns repeated or systematic violent conduct. Domestic violence may not always take the form of a single isolated incident. Previous episodes of physical violence, threats, humiliation, coercive behavior, or other harmful conduct may provide important contextual information concerning the circumstances of the offense. However, previous conduct should be used in accordance with applicable procedural and evidentiary rules and should not automatically be treated as proof of guilt in the new episode. Its legal significance must be determined according to the specific facts and applicable legislation.[12]

The analysis further demonstrates that the relationship between the offender and the victim constitutes an important distinguishing factor. Domestic and family violence generally occurs within a particular interpersonal environment characterized by family, household, intimate, or other legally relevant relationships. This distinguishes such cases from violent offenses committed between unrelated persons in public or other settings. Nevertheless, the existence of a family relationship alone cannot replace the requirement to establish all elements of the relevant criminal offense. The legal qualification must be based on the conduct actually established by evidence.

The study also highlights the importance of distinguishing domestic and family violence from other violent crimes. Similar physical consequences may arise from different criminal acts, while their legal qualification may depend on the method of commission, motive, relationship between the parties, degree of harm, recurrence, threats, and other circumstances. Therefore, investigators should establish the complete factual circumstances before selecting the applicable criminal-law provision. Such an approach reduces the risk of incorrect qualification and strengthens the procedural validity of investigative decisions.[13]

From the perspective of judicial practice, particular attention should be given to the proportionality between the established factual circumstances and the criminal-law consequences. Criminal liability should be determined on the basis of proven facts and legally relevant circumstances rather than assumptions about the offender's personality or the existence of a family conflict. The court's assessment should therefore distinguish clearly between evidence establishing the objective elements of the offense and evidence relevant to the subjective elements.

The results suggest that improving investigative practice requires a structured approach to establishing guilt. At the initial stage, investigators should identify the nature and circumstances of the violent act, the relationship between the parties, the consequences, and available evidence. At the subsequent stage, the subjective side should be examined through the offender's statements, conduct, sequence of actions, previous threats or relevant behavior, and other objectively verifiable circumstances. Finally, all evidence should be evaluated collectively to determine whether the required form of guilt has been established to the legally required standard.[14]

Thus, the findings demonstrate that effective criminal-law responses to domestic and family violence depend not only on identifying the fact of violence but also on accurately establishing the form of guilt and its relationship with the elements of the offense. A comprehensive evidentiary approach provides a stronger basis for lawful qualification, individualized criminal liability, and consistent investigative and judicial practice.[15]

4. Conclusion

The study of forms of guilt and criminal liability in crimes involving domestic and family violence demonstrates that the subjective side of the offense occupies a fundamental position in the process of criminal-law qualification. Establishing the mere fact that violence occurred is insufficient for a complete legal assessment. Investigators and courts must determine the offender's mental attitude toward the conduct and its possible or actual consequences, as well as the circumstances that reveal the nature of the offender's intention or negligence where relevant.

The analysis confirms that intentional conduct requires particular attention in domestic and family violence cases. The existence and character of intent should be established on the basis of a comprehensive assessment of objective circumstances, including the nature of the act, method of commission, intensity of violence, statements and threats, sequence of actions, consequences, and behavior before and after the incident. At the same time, no single circumstance should automatically be regarded as conclusive evidence of a particular form of guilt. The legal conclusion must be based on the totality of admissible and reliable evidence.

An important conclusion is that the specific family or household relationship between the offender and victim should be considered together with the objective and subjective elements of the offense. Such a relationship may constitute an important characteristic distinguishing domestic and family violence from other violent crimes, but it does not eliminate the need to establish the concrete criminal act and all legally required elements. This approach is essential for ensuring consistency in criminal-law qualification.

The research also establishes the importance of improving evidentiary practices in this category of cases. Since intention and other subjective elements cannot normally be established through direct observation, investigators should systematically collect and evaluate evidence capable of demonstrating the offender's awareness and attitude toward the consequences of the conduct. Medical records, witness statements, legally obtained electronic evidence, forensic conclusions, documented previous incidents, and other relevant materials may collectively contribute to establishing the circumstances of the offense.

From the standpoint of judicial practice, criminal liability should be individualized according to the proven circumstances of each case. The severity of the consequences, nature of the violence, relationship between the parties, recurrence of conduct, and form of guilt should be assessed within the framework of applicable criminal and procedural law. Such an approach helps prevent both inadequate legal assessment and unjustified expansion of criminal liability.

In conclusion, the effective prevention and investigation of domestic and family violence require close coordination between substantive criminal-law rules, evidentiary standards, investigative methodology, and judicial assessment. Improving the consistency of approaches to determining forms of guilt can contribute to more accurate qualification of offenses and greater legal certainty. Further development of investigative recommendations, systematic analysis of judicial practice, and strengthening evidence-based approaches may provide additional opportunities for improving the effectiveness of criminal justice responses to domestic and family violence.

REFERENCES

- [1] United Nations Office on Drugs and Crime, *Handbook on Effective Prosecution Responses to Violence Against Women and Girls*. Vienna, Austria: United Nations, 2014, pp. 1–172.
- [2] Council of Europe, *Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention)*, CETS No. 210. Istanbul, Türkiye: Council of Europe, 2011, pp. 1–36.
- [3] United Nations General Assembly, *Declaration on the Elimination of Violence Against Women*, Resolution 48/104. New York, NY, USA: United Nations, 1993, pp. 1–6.
- [4] United Nations General Assembly, *Updated Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice*, Resolution 65/228. New

- York, NY, USA: United Nations, 2010, pp. 1–28.
- [5] World Health Organization, *Understanding and Addressing Violence Against Women: Intimate Partner Violence*. Geneva, Switzerland: World Health Organization, 2012, pp. 1–12.
- [6] World Health Organization, *Responding to Intimate Partner Violence and Sexual Violence Against Women: WHO Clinical and Policy Guidelines*. Geneva, Switzerland: World Health Organization, 2013, pp. 1–56.
- [7] UN Women, *Handbook for National Action Plans on Violence Against Women*. New York, NY, USA: United Nations Entity for Gender Equality and the Empowerment of Women, 2012, pp. 1–96.
- [8] J. C. Campbell, “Health consequences of intimate partner violence,” *The Lancet*, vol. 359, no. 9314, pp. 1331–1336, 2002.
- [9] M. P. Johnson, *A Typology of Domestic Violence: Intimate Terrorism, Violent Resistance, and Situational Couple Violence*. Boston, MA, USA: Northeastern University Press, 2008, pp. 1–176.
- [10] E. Stark, *Coercive Control: The Entrapment of Women in Personal Life*. New York, NY, USA: Oxford University Press, 2007, pp. 1–464.
- [11] L. A. Goodman and D. Epstein, “Refocusing on women: A new direction for policy and research on intimate partner violence,” *Journal of Interpersonal Violence*, vol. 23, no. 1, pp. 5–11, 2008.
- [12] R. E. Dobash and R. P. Dobash, *Violence Against Wives: A Case Against the Patriarchy*. New York, NY, USA: Free Press, 1979, pp. 1–336.
- [13] Council of Europe, “Investigation, prosecution, procedural law and protective measures under the Istanbul Convention,” *Istanbul Convention Action against Violence against Women and Domestic Violence*, 2026.
- [14] UN Women, “Ending violence against women,” *UN Women Headquarters*, 2026.
- [15] Council of Europe, “Relevant judgments concerning domestic violence, criminal law provisions and effective investigation,” *Istanbul Convention Action against Violence against Women and Domestic Violence*, 2026.