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SOCIAL AND LEGAL ASPECTS OF INTERNALLY DISPLACED PERSONS' PROTECTION

Анотація. Досліджено правове регулювання щодо захисту і допомоги внутрішньо переміщеним особам в Україні. Здійснено аналіз соціально-правової бази захисту внутрішньо переміщеним особам. З'ясовано ряд проблем і прогалин у законодавстві України щодо забезпечення прав внутрішньо переміщених осіб, а саме: складнощі в підтвердженні статусу внутрішньо переміщеної особи й отриманні соціальних виплат; труднощі у правовідносинах із банками; проблеми з реалізацією права власності на окупованих територіях і зоні проведення АТО; суперечності й прогалини в нормативно-правових актах. Запропоновано шляхи вдосконалення захисту прав внутрішньо переміщених осіб в Україні.

Ключові слова: внутрішньо переміщені особи; державна політика; державна підтримка; біженець; нормативно-правова база; закон; Україна.

Problem statement. Internally displaced persons (IDP) – is a relatively new concept for Ukraine. The occupation of the Autonomous Republic of Crimea, and the armed conflict in eastern Ukraine led to the fact that more than two million people were made to leave their homes and become displaced (migrants). Number and distribution of internally displaced persons by region of Ukraine According to the Ministry of Social Policy at the end of February 2016 in Ukraine were about 1.735 million internally displaced persons. About 22,000 came from Crimea and over 1.7 million moved from the East of Ukraine [1; 2].

Analysis of recent scientific research and publications. The basis of sources are regulations, including the Law of Ukraine «On the rights and freedom of citizens and legal regime in the temporarily occupied territory of Ukraine», the Law of Ukraine «On protection of rights and freedom of internally displaced persons». Research of practical aspects of migration policy is reflected in the works of home scientists, including: E. Libanova, I. Maydanik, A. Malinowska, O. Khomra, I. Prybytkova, Yu. Rymarenko, William Garden. Some approaches to solving the problems of internally displaced persons are highlighted by A. Solodko, T. Doronyuk in a number of papers on this topic [3; 4].

The purpose of the article is to study the regulation as to the protection and assistance to internally displaced persons in Ukraine and analysis of socio and legal framework of IDP protection.

Presenting the main study material. Central to the process of ensuring the rights of any category of persons is to define the legal status of this category. The legal status of a person – is the human condition in the legal reality that reflects its (human) actual state of relations with society and the state. This set of subjective rights, legal obligations and legitimate interests of law [5].

Internally displaced person is a citizen of Ukraine, foreigner or stateless person who is in Ukraine on legal grounds and has right to permanent residence in Ukraine, which was forced to leave, or leave his place of residence as a result of \or in order to avoid the negative effects of armed conflict, the temporary occupation, widespread violence, human rights violations and natural or man-caused emergencies [6].

Over the years of internally displaced persons' existing on the territory of Ukraine, there is certainly a positive trend in ensuring their rights. In particular, there appeared appropriate legal regulation, work of state agencies and local governments in this area were organized, database appeared, state funds for support to internally displaced persons. At the same time, a number of issues remain unsolved, regulations are imperfect, have contradictions and gaps; lack of jobs for internally displaced persons; difficulties in confirming the status of internally displaced persons and receiving social benefits; difficulties in the relationship with the banks; problems with the implementation of property rights in the occupied territories and the area of ATO; difficulty in access to justice and education. One of the key guarantees of rights, freedoms and legitimate interests of IDPs is free legal assistance and support. Primary legal assistance is the kind of state guarantees, which is meant to inform people about their rights and freedoms, the procedure for their implementation, renewal in case of violations and procedures for appealing against decisions, acts or omissions of public authorities, local government officials and services. According to the law of Ukraine, internally displaced persons are currently eligible for primary legal aid which is to provide consultation, legal information, preparation of documents to assist in providing access to secondary legal aid and mediation.

According to the situation, the Ministry of Education and Science of Ukraine has allowed secondary and vocational education institutions to receive from students who left the Crimea, documents of basic and complete Education issued subsequent replacement the documents state. As for the students who left the territory of the antiterrorist operation and uncontrolled territories of Luhansk and Donetsk regions, their enrollment is permitted without the provision of relevant documents on basic or complete secondary education with subsequent restoration [7].

The relevant Law «On the rights and freedoms of internally displaced persons», which should be the main one in the process of state policy formation as to IDPs was adopted only in November 22 in 2014. In fact, eight months after the anti-terrorist operation beginning. However, the adopted law was preceded by a block of regulations adopted by Cabinet Ministers of Ukraine (CMU №505, 509 of 01.10.2014 №595 from 07.11.2014, №79 from 04.03.2015, Etc.) that regulates the registration of IDPs, providing them with financial assistance, replenishment and other social benefits.

The Law «On amendments to some laws of Ukraine to strengthen social protection of internally displaced persons» turned out to be positive. It provides: compensation of registered unemployed IDPs of actual transport costs for relocation to another administrative-territorial unit the place of employment; compensation costs the employer to employees (not above-average wages in the region) for employment of registered unemployed IDPs in terms of fixed-term contracts of not more than 6 months, provided that the job security of the person for a period exceeding the duration of payment twice; compensation costs employer who employs registered IDPs least 12 months for retraining and advanced training of such persons.

The adopted Law «On amendments to some laws of Ukraine to strengthen the guarantees of the rights and freedoms of internally displaced persons», accepted on the 6th of January 2016, is fully consistent with international standards. Also, this law is the first step in

the retreat of Soviet rudiment – the registration of «residence». Now citizens residing in the temporarily on occupied territories, but haven't been not registered, will be able to have the status of internally displaced persons according to extended procedure.

The certificate of IDPs status will now operate termless and migrants will not have to undergo re-registration extension certificate and register in the State Migration Service of Ukraine. This law helps to register internally displaced persons in the labor market.

In the process of legal content analysis of categories being investigated one should pay attention to the fact that at international level there is no agreed standard that governs the termination status of IDPs. According to the Law of Ukraine «On internally displaced persons» a person loses the status of internally displaced person if he / she return to the place of residence. Typically, such a provision applying the state at that time, when long-term decisions on internal displacement have been implemented and included: a return to the place of residence; local integration in the community, which accepts immigrants; resettlement in another country when these decisions are accompanied by long-term safety and protection, compensation for lost property, and economic, social and sustainable environment for former IDPs [8; 9].

According to the mentioned above, some ways to improve the situation may be outlined:

1. When building a system of IDPs assistance, one should consider and study the experience of foreign countries.
2. To harmonize the regulatory framework and agree the provisions of the Law «On the rights and freedoms of internally displaced persons» with the standards of the Cabinet of Ukraine, which regulate the exercise of rights and freedoms of internally displaced persons.
3. Adopt appropriate laws and regulations that will implement the rights of internally displaced persons, particularly in housing.
4. While drafting letters of recommendations and explanations strictly comply with current legislation and prevent an extended interpretation of legal regulations.
5. Cancel CMU decision from 04.03.2015 number 79, which has implemented a verification of immigrant's residence and the put of the registration markings.
6. Develop a procedure for calculation and conversion to monthly targeted assistance that would contain clear algorithms, calculations (appointment, decrease, increase) of the monthly targeted assistance.
7. Create a single secure electronic information database of internally displaced persons with automated access to the competent state authorities.
8. Periodically evaluate and review the criteria for vulnerable groups of immigrants, who are provided with humanitarian aid.
9. Provision of settlements located close to the areas of hostilities, transport links, regular deliveries of goods and humanitarian aid, the ability to receive medical services.
10. The creation of a separate Ministry or department coordination, which would have guardians, protect the rights and freedoms of citizens who remained in temporarily occupied and annexed territory.

Conclusion and further perspectives. Number of internally displaced persons (IDPs) from the Donetsk and Luhansk regions and the Crimea has currently exceeded 1 million and was formed as a result of several waves of migration directly related to the frequency and intensity of the fighting. The lack of real prospects for a quick recovery of state control over all areas will result in a further increase in internal migration.

Internally displaced persons – the category of the population, which is facing the world community for many years, but in the territory of independent Ukraine this category of

the population has appeared for the first time. The Government of Ukraine is taking some measures to address the problems of internally displaced persons; many efforts are made by international organizations, volunteers, charities and individuals. However, the implementation of urgent measures and private initiatives has the necessary capacity for comprehensive support in the medium term internal migration from temporarily uncontrolled by Ukraine Donetsk and Luhansk regions and Crimea territory.

Overcoming the negative effects of positive potential and the realization of forced internal migration requires concentration of national resources and international donor assistance. *Further studies* need as a matter of efficiency of existing short-term social support programs for IDPs and analysis of capabilities for implementing long-term programs of development of the economic potential of IDPs.

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Abstract. *Martovytska N. V., Shyshatska Ju., A. Social and legal aspects of internally displaced persons' protection.*

Introduction. *Today the problem of migrants from Luhansk, Donezk and Crimea is sharp. It requires urgent decision because these people are left unprotected and need assistance.*

Purpose. *The purpose of the article is to study the regulation as to the protection and assistance to internally displaced persons in Ukraine and analysis of socio and legal framework of IDP protection.*

Results. *The basis of sources are regulations, including the Law of Ukraine «On the rights and freedom of citizens and legal regime in the temporarily occupied territory of Ukraine», the Law of Ukraine «On protection of rights and freedom of internally displaced persons». Research of practical aspects of migration policy is reflected in the works of home scientists. Central to the process of ensuring the rights of any category of persons is to define the legal status of this category. The legal status of a person – Is the human condition in the legal reality that reflects its (human) actual state of relations with society and the state. This set of subjective rights, legal obligations and legitimate interests of law. Over the years of internally displaced persons' existing on the territory of Ukraine, there is certainly a positive trend in ensuring their rights. In particular, there appeared appropriate legal regulation, work of state agencies and local governments in this area were organized, database appeared state funds for support to internally displaced persons.*

Originality. *The article suggests some ways to improve the situation of internally displaced persons. The main are: when building a system of IDPs assistance, one should consider and study the experience of foreign countries; to harmonize the regulatory framework and agree the provisions of the Law "On the rights and freedoms of internally displaced persons" with the standards of the Cabinet of Ukraine; adopt appropriate laws and regulations that will implement the rights of internally displaced persons, particularly in housing; creation of a separate Ministry or department coordination, which would have guardians, protect the rights and freedoms of citizens who remained in temporarily occupied and annexed territory.*

Conclusions. *Over the years of internally displaced persons' existing on the territory of Ukraine, there is certainly a positive trend in ensuring their rights. In particular, there appeared appropriate legal regulation, work of state agencies and local governments in this area were organized, database appeared state funds for support to internally displaced persons. At the same time, a number of issues remain unsolved, regulations are imperfect, and have contradictions and gaps. Overcoming the negative effects of positive potential and the realization of forced internal migration requires concentration of national resources and international donor assistance.*

Key words: *internally displaced persons; public policy; state assistance; migrant; legal framework; law of Ukraine.*

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КОНЦЕПТИ ОНОВЛЕННЯ УПРАВЛІНСЬКОЇ КУЛЬТУРИ ВИКЛАДАЧА ВИШУ В СИСТЕМІ НЕПЕРЕРВНОЇ ОСВІТИ

Анотація. *Зазначено, що в сучасних умовах для того, щоб мати попит на ринку праці, будь-яка людина повинна постійно підвищувати свою професійну компетентність, а її потреби в нових професійних знаннях і вміннях в умовах швидкозмінного соціуму може задовольнити система неперервної освіти. Визначено, що управлінська культура є якістю особистості, яка поєднує професійні знання, комунікативні й організаторські здібності, ціннісно-емоційні якості, бажання постійно самовдосконалюватися. Розглянуто концепти щодо оновлення управлінської культури викладача вишу в системі неперервної освіти, а також принципи та акмеологічний, андрагогічний, діяльнісний, системний, особистісний і синергетичний підходи.*

Ключові слова: *викладач вишу; управлінська культура; неперервна освіта; антропосоціальний підхід; андрагогічний підхід; діяльнісний підхід; синергетичний підхід; особистісний підхід; системний підхід.*

Постановка проблеми. *Зміни, що відбуваються в сучасному суспільстві, а саме: інтегрування української освіти в європейську та світову, а українських фахівців у світову систему професійних відносин, – вимагають від викладачів вишу оновлення освітнього процесу з метою задоволення освітніх і професійних потреб кожного громадянина України. У зв'язку з цим різко зростають вимоги до їх професійних рис, фахової майстерності.*