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СУЧАСНІ ВИКЛИКИ ДЛЯ МІГРАЦІЙНОЇ ПОЛІТИКИ: ПРАВОВІ, ОСВІТНІ ТА ІСТОРИЧНІ АСПЕКТИ

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До збірника ввійшли наукові статті та повідомлення викладачів, студентів, учених та аспірантів ЗВО і наукових установ, викладачів закладів вищої та фахової передвищої освіти, вчителів шкіл, виголошені під час проведення науково-практичного круглого столу «Сучасні виклики для міграційної політики: правові, освітні та історичні аспекти», присвяченого актуальним питанням європейської міграційної політики, історії та права і проведеного в межах реалізації освітнього проєкту «101098859-EU4Migration-ERASMUS-JMO-2022-HEI-TCH-RSCH-UA-IBA / ERASMUS-JMO-2022-HEI-TCH-RSCH «Міграційна політика та право ЄС у контексті цілей сталого розвитку» напрямку «Жан Моне» програми Еразмус +».

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МІЖНАРОЛНО-ПРАВОВИЙ АСПЕКТИ

LEGAL STATUS OF CITIZENS WHO WERE DISPACED WITHIN THE TERRITORY OF UKRAINE DURING THE WAR: THREATS AND CHALLENGES

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In the conditions of the war with Russia and as a result of active hostilities in some Ukrainian cities, thousands of Ukrainian citizens automatically became internally displaced persons in their state. According to border guards, more than one and a half million people left for European countries. There are probably no exact statistics on citizens who fled the war to other regions of the country, but it is definitely no less than those who went abroad.

Currently, there are no mechanisms for working with such citizens in the state, and this is a certain problem. First of all, it is the lack of accurate and objective data on the number of such persons, their personal data, etc. Secondly, law enforcement agencies cannot clearly identify and verify such persons, which is very important in the conditions of martial law. The security of the host communities depends on such checks, because saboteurs who plan to destabilize the situation can get into them along with real migrants. In addition, such resettled people should receive appropriate guarantees from the state, as they currently need state support.

In order to formulate proposals regarding the specified problem, it is necessary to analyze several clusters:

- 1) consider what position regarding such internal displacement is contained in the norms of international humanitarian law;
 - 2) outline the status of such citizens at the current stage;
- 3) propose mechanisms for regulating procedural aspects of work with internally displaced persons.

in the norms of international humanitarian law, the key difference between refugees and displaced persons is the fact of crossing the state border and entering the territory of another state. Thus, a displaced person, according to the position of international legal

norms, is a person who left his home, but remained within the state borders of his country. It can be concluded that in international law, the status of an internally displaced person is tied to the fact of displacement as a result of the temporary occupation of the state's territory. Therefore, the situation that has developed in Ukraine does not contradict the norms of international humanitarian law. This means, that our emigrants can receive the appropriate status in case of moving to another region.

Moreover, the norms of international humanitarian law indicate that these citizens are under the jurisdiction of their state, that is, Ukraine, which is obliged to protect them. In essence, providing guarantees to internally displaced persons is a constitutional duty of the state. In this case, under protection should be understood not only the guarantee of safe conditions for life, but also the provision of a number of social, legal and other guarantees. There is no clear list of such guarantees, because they are contained in various international legal acts. However, there is a condition that the scope of such guarantees must correspond to the basic human needs, which are guaranteed by the Universal Declaration of Human Rights and the Convention on the Protection of Human Rights and Fundamental Freedoms. International law gives states the right to independently determine all procedural aspects related to the granting of such status and guarantees. But the violation of the specified rights of internally displaced persons may be a reason to appeal to the European Court of Human Rights. This is a guarantee of international legal protection of migrants [1].

Citizens of Ukraine, who are forced to leave for other regions of the country during the war, from a legal point of view acquire the characteristics of an internally displaced person. Of course, we are talking about the interpretation of this status, which is provided in the current legislation of Ukraine, in particular in the Law of Ukraine "On Ensuring the Rights and Freedoms of Internally Displaced Persons". We would like to remind you that we are talking about the following definition: an internally displaced person is a citizen of Ukraine, a foreigner or a stateless person who is in the territory of Ukraine on legal grounds and has the right to permanent residence in Ukraine, who was forced to leave or leave his place of residence as a result of or in order to avoid the negative consequences of armed conflict, temporary occupation, widespread manifestations of violence, violations of human rights and emergency situations of a natural or man-made nature [2].

In general, this definition fully corresponds to the context that exists in Ukraine today. However, the problem is that the Law of Ukraine "On ensuring the rights and freedoms of citizens and the legal regime in the temporarily occupied territory of Ukraine" clearly defines what constitutes such a territory (Article 3):

- 1) the land territory of the Autonomous Republic of Crimea and the city of Sevastopol, the internal waters of Ukraine of these territories;
- 2) internal sea waters and the territorial sea of Ukraine around the Crimean Peninsula, the territory of the exclusive (maritime) economic zone of Ukraine along the coast of the Crimean Peninsula and the continental shelf of Ukraine adjacent to the coast, which are subject to the jurisdiction of the state authorities of Ukraine in accordance with the norms of international law, the Constitution and laws of Ukraine;
- 3) the subsoil under the territories specified in clauses 1 and 2 of this part, and the airspace above these territories.

Today, the entire territory of Ukraine has become a war zone, so the terms "internally displaced person" and "temporarily occupied territory" should be revised. Otherwise, citizens of Ukraine will not be able to obtain the appropriate status. The complexity of the situation lies precisely in determining the grounds for obtaining such a status for issuing relevant guarantees and keeping records of such persons. However, we note that it is possible to settle this issue only through a combination of rule-making at the legislative and sub-legal levels.

All procedural aspects should be regulated at the level of normative legal acts of local self-government bodies. Internally displaced persons must arrive in the region and follow certain rules. First, such persons must register with volunteer organizations, which will later provide such data to the social security administration and law enforcement agencies . The former will deal with issues of providing social guarantees to such persons, and the latter will deal with the verification of belonging to self-proclaimed republics, the Russian army and other criminal groups.

Secondly, men of conscription age who have arrived in another region must be registered at the military commissariats, this also applies to conscripted women. In the future, on the basis of such checks and accounting, persons will be granted the status of an internally displaced person. To work with such citizens in each oblast, it is necessary to create coordination centers at the level of local executive bodies and regional state administrations - military-civilian administrations. They will work together with volunteer organizations and public associations. Their main tasks should be: organizing the provision of guarantees for internally displaced persons, documenting the facts of violations by the Russian army, systematizing information about the destroyed or damaged housing of such displaced persons, summarizing and analyzing the basic needs of such persons.

In the structure of local executive bodies and regional state administrations, subdivisions have already been created that deal with issues of social protection of internally displaced persons, have experience in such work, so they can be involved in the procedures for developing and adopting local programs, orders that will regulate work on humanitarian and social issues at levels of cities and regions.

The urgent need at this time is the creation of official headquarters for the registration of persons who have moved to a new place of residence/residence and the resolution of their social and humanitarian issues.

Such headquarters should be assigned the following functions:

- analysis of the needs of the displaced population,
- communication with state executive bodies and local self-government bodies on humanitarian and social issues,
 - determination of official places of resettlement of internally displaced persons,
- daily exchange of data on cities of settlement of registered persons between headquarters and volunteer centers, executive authorities to generalize information on the number of persons entering the regions,
- daily exchange of information about registered persons between headquarters and law enforcement agencies National Police and Security Service Directorates, military commanders, regional military-civilian administrations and local self-government bodies, social security departments for the purpose of accounting for persons of a privileged category: persons with disabilities, including children, large families, etc.,
 - keeping records of persons who have moved,
 - ensuring compliance with the rights of displaced persons,
- organization of work on documenting war crimes (survey of internally displaced persons) [3].

The coordination headquarters should establish a hotline and coordinate work to meet the needs of displaced persons. The headquarters should include authorized representatives of regional and district state administrations, regional councils, military and territorial defense committees, the prosecutor's office, the police, and the security service of Ukraine.

The tasks of the headquarters, the structure and the distribution of the work areas of the persons who are part of it must be fixed by the orders of the head of the Regional State Administration.

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