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ТЕОРІЯ ТА ІСТОРІЯ ДЕРЖАВИ І ПРАВА; ІСТОРІЯ ПОЛІТИЧНИХ І ПРАВОВИХ УЧЕНЬ

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FEATURES OF SOCIAL AND LEGAL GUARANTEES PROVIDING FOR THE INTERNALLY DISPLACED PERSONS IN UKRAINE

ОСОБЛИВОСТІ ЗАБЕЗПЕЧЕННЯ СОЦІАЛЬНО-ПРАВОВИХ ГАРАНТІЙ ВНУТРІШНЬО ПЕРЕМІЩЕНИХ ОСІБ В УКРАЇНІ

**Zavalnyi V.V., Master of Laws,
Assistant of the Rector**

Lviv Polytechnic National University

**Ratushna O.M., Senior Lecturer of a Higher Education Institution
at the Department of History, Museum Studies and Cultural Heritage**

Lviv Polytechnic National University

The article is devoted to the problems and features of social and legal guarantees providing for the internally displaced persons in Ukraine as those who were forced to leave their place of residence as a result of or with the aim of avoiding the negative consequences of armed conflict, temporary occupation, widespread manifestations of violence, violations of human rights and emergency situations of natural or man-made character.

It was emphasized that persons legally recognized as the internally displaced persons need the assistance of the state and society in comprehensive integration into the new living environment on the basis of ensuring fundamental human rights and freedoms as well as respect for human dignity.

It is noted that during the war, the social policy of the state regarding the social protection of the population cannot be fully implemented. During martial law in the state, certain constitutional rights and freedoms of a person and a citizen are limited, but a number of rights cannot be limited even under such conditions. Everyone has the right to housing, respect for his/her rights, honor and dignity of a person, protection of his/her rights in court, etc.

Attention was focused on the fact that Ukraine, through authorized persons, bodies and organizations, continues active cooperation with international bodies and organizations regarding the social security of citizens during the war, and this contributes to the provision of humanitarian aid, the realization of the right to education, in particular abroad, as well as opportunities of full-fledged social and legal provision of the internally displaced persons.

It is noted that the housing needs of the internally displaced persons are becoming more urgent, as the material assistance provided to them and the savings of the population cannot cover the costs associated with long-term displacement. Also, the issue of the realization of the right to work by internally displaced persons is important and requires an active solution, because the regions where the majority of the internally displaced persons live cannot fully provide the need for jobs for all those in need.

Key words: internally displaced person, social and legal guarantees, social policy, human rights, children's rights, social insurance.

Стаття присвячена проблемам і особливостям забезпечення соціально-правових гарантій внутрішньо переміщених осіб в Україні як таких, яких змусили залишити або покинути своє місце проживання у результаті або з метою уникнення негативних наслідків збройного конфлікту, тимчасової окупації, повсюдних проявів насильства, порушень прав людини та надзвичайних ситуацій природного чи техногенного характеру.

Наголошено на тому, що особи, що у законному порядку визнані внутрішньо переміщеними особами потребують сприяння держави і соціуму у повноцінній інтеграції у нове середовище проживання на основі забезпечення основоположних прав і свобод людини та поваги до людської гідності.

Зазначено, що під час війни соціальна політика держави щодо соціального захисту населення не може реалізуватися у повному обсязі. Під час воєнного стану в державі обмежуються певні конституційні права і свободи людини і громадянина, але ряд прав не можуть обмежуватися навіть за таких умов. Кожен має право на житло, повагу до його прав, честі і гідності особи, захист своїх прав у судовому порядку тощо.

Акцентовано увагу на тому, що Україна через уповноважених осіб, органи і організації продовжує активну співпрацю з міжнародними органами і організаціями щодо соціального забезпечення громадян під час війни, а це сприяє наданню гуманітарної допомоги, реалізації права на освіту, зокрема за кордоном, а також, можливості повноцінного соціально-правового забезпечення внутрішньо переміщених осіб.

Зазначено, що потреби в житлі для внутрішньо переміщених осіб стають актуальнішими, оскільки матеріальна допомога, яка їм надається, та заощадження населення не можуть покрити витрати, пов'язані з довготривалим переміщенням. Також, питання реалізації внутрішньо переміщеними особами права на працю є важливим і таким, що потребує активного вирішення, адже регіони, в яких проживає більшість внутрішньо переміщених осіб не можуть забезпечити повноцінну потребу у робочих місцях усім потребуючим.

Ключові слова: внутрішньо переміщена особа, соціально-правові гарантії, соціальна політика, права людини, права дітей, соціальне страхування.

Formulation of the problem. Every democratic and legal state undertakes the duty to provide social and legal guarantees to its citizens. Ukraine is not an exception in this process. The activities of relevant bodies and structures are aimed at ensuring all the rights and freedoms of citizens in the state,

which are guaranteed by the Constitution of Ukraine, so that every person feels like a full member of society.

Today, Ukraine faces the challenge of preserving its statehood, sovereignty, and independence in the fight against the enemy that disregards not only the rules of warfare, but

all international legal norms of the civilized society coexistence. Even under the conditions of martial law, our state tries to ensure the full-fledged life of citizens, especially the most vulnerable categories, which include the internally displaced persons (IDPs).

It is important not only to provide all social and legal guarantees to such persons, but also to provide moral and psychological support, legal advice regarding the new social status and the soonest possible adaptation to the circumstances in which they found themselves.

The state of this problem development. For a comprehensive analysis and complete understanding of the declared issues, it is advisable to rely on the adopted Ukrainian and international legal acts, as well as on the theoretical-methodological potential of the works of domestic and foreign legal scholars, namely: the works of N. Bortnyk, I. Lahutina, B. Stashkiv, H. Charnysheva and others.

Within the framework of the legal interpretation of the problem, scientific concepts should contribute to the formation of a comprehensive approach to ensuring the possibility of full realization of the internally displaced persons rights and freedoms and abuses elimination of both these rights and their implementation.

The purpose of the article is to deepen the study of the peculiarities of the internally displaced persons social and legal guarantees ensuring in Ukraine.

Presentation of the main material. According to the legislation of Ukraine, 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 his/her 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 [1].

The term "guarantees" is used to denote methods, means, conditions, factors, etc., by means of which certain rights and freedoms are ensured or realized. In normative acts, guarantees of human rights are considered as: 1) rights and powers aimed at ensuring of more general (constitutional) right; 2) benefits – advantages, additional rights granted to certain categories of citizens; 3) measures of social support, the list of which is determined by law in relation to specific categories of recipients; 4) state obligations on providing citizens with appropriate types of social security [2, p. 59].

Undoubtedly, persons legally recognized as internally displaced persons need the assistance of the state and society in the full integration into a new living environment on the basis of ensuring basic human rights and freedoms and respect for human dignity.

Socio-legal guarantees are material and legal guarantees that ensure the realization of socio-economic and socio-political rights of society members. The main socio-legal guarantees include the right to work, the right to rest, the right to housing, the right to education and medical care, etc. [3].

In the process of the European integration policy implementation in Ukraine, a significant reform was carried out in the sphere of socio-legal provision of the population. The reforms concern not only regulatory and legal support, but also the procedure for practical implementation of prescribed norms. Especially noticeable changes took place in the field of medicine and education. In many aspects, in these areas, Ukraine was able to compete on the international stage with the developed countries of the world, having defined the appropriate state social standards and guarantees.

The Ministry of Social Policy of Ukraine states that state social standards are social norms and standards established by laws, other normative-legal acts, or their complex, on the basis of which the levels of basic state social guarantees are determined. State social guarantees – the minimum

amounts of wages, incomes of citizens, pensions, social assistance, amounts of other types of social benefits, established by laws and other regulatory legal acts, which ensure a standard of living not lower than the subsistence minimum. Social norms and standards are indicators of the necessary consumption of food, non-food goods and services as well as the provision of educational, medical, housing and communal, social and cultural services. Expenditure standards (financing) are indicators of current and capital expenditures from budgets of all levels to ensure satisfaction of needs at a level not lower than state social standards and regulations [4].

Today, we understand that Russia's war against Ukraine requires the redistribution of state funding in favor of defense and strategically important areas of state society, but there are areas of social security that are in urgent need of state support during the war.

The social policy regarding the social protection of the population is aimed at multi-vector satisfaction of the population needs by increasing the role of labor income, protecting the population from rising prices, guaranteed subsistence minimum, wage indexation. Based on this, the main directions of social policy in this area are:

- improvement of the population well-being at the expense of personal labor contribution, entrepreneurship and business activity;
- provision of appropriate unemployment assistance, preservation of jobs, professional retraining of persons who have lost their jobs;
- continuation of the pension reform, which will ensure a fair system of pension costs taking into account the labor contribution of the employee;
- provision of targeted assistance to those who need it most, in monetary and in-kind forms;
- broad support for family, motherhood and childhood [2, p. 20–21].

Of course, during the war, the social policy of the state regarding the social protection of the population cannot be fully implemented. During martial law in the state, certain constitutional rights and freedoms of a person and a citizen are limited, but a number of rights cannot be limited even under such conditions. Everyone has the right to housing, respect for his/her rights, honor and dignity of a person, protection of his/her rights in court, etc.

As for the internally displaced persons, the Law of Ukraine "On Ensuring the Rights and Freedoms of the Internally Displaced Persons" guarantees them the realization of their rights to employment, pension provision, mandatory state social insurance in case of unemployment, as well as a citizen of retirement age, a person with a disability, a child with a disability and another person who is in difficult life circumstances, who are registered as internally displaced persons, have the right to receive social services in accordance with the legislation of Ukraine at the place of registration of the actual residence of such an internally displaced person [1].

In Ukraine, even before the war, significant attention was paid to the issues of difficult life circumstances. A number of normative legal acts were adopted that determined the signs, conditions and features of difficult life circumstances, as well as bodies, organizations and persons that should deal with the issues of such problems solution and the procedure for direct support of persons caught in such circumstances.

Since 2014, the number of the internally displaced persons has significantly increased in the country, the interpretation of "difficult life circumstances" has expanded, and the category of the internally displaced persons, in our opinion, is fully characterized by these circumstances. Today, we include in the content of this term not only family troubles, violence, failure to fulfill parental duties, neglect of a child, etc., but much more extensive circumstances related to forced relocation during the war.

An important aspect is the observance and implementation of social-legal guarantees for children of the internally displaced persons.

A registered internally displaced person has the right to continue obtaining a certain level of education in the territory of other regions of Ukraine at the expense of the state budget or other sources of funding. The procedure for financing the education of the category of persons who were enrolled at educational institutions in the territories where special circumstances arose is established by the Cabinet of Ministers of Ukraine.

Children from the number of the internally displaced persons or children who have the status of a child who suffered as a result of military actions and armed conflicts, who study at preschool, general education, vocational and technical educational institutions, regardless of subordination, types and form of ownership, are provided with free meals according to the order, established by the Cabinet of Ministers of Ukraine [1].

In Ukraine, the protection of motherhood and childhood has always been a priority. For this, a large-scale state-legal policy was carried out through the adoption of a number of domestic and ratification of international legal acts according to which the state protects motherhood and childhood and recognizes the priority of the mother and child interests in society.

Socio-legal protection of children in Ukraine during the war covers all areas of a child's life, and social, legal (juvenile prevention), psychological services, volunteers, etc. are involved in this process.

Also, it is worth noting that the Social Insurance Fund of Ukraine actively works with the IDPs to realize their right to receive material support, insurance payments and social services under the mandatory state social insurance in connection with temporary loss of working capacity and from an accident at work and occupational disease [5].

Among guarantees for the protection of social rights of man and citizen there are also international guarantees. International guarantees include international acts on human rights, as well as international bodies such as the General Assembly of the United Nations, the European Court of Human Rights, etc.

Through authorized persons, bodies and organizations, Ukraine continues active cooperation with international bodies and organizations regarding the social security of citizens during the war, and this contributes to the provision of humanitarian aid, the realization of the right to education, in particular abroad, as well as the possibility of full-fledged social and legal security of the internally displaced persons.

Between August 17 and 23, 2022, the International Organization for Migration (IOM) conducted the eighth round of a representative express assessment of the general population of Ukraine to collect information on internal displacement and mobility flows, as well as to assess local needs. This assessment of the general population serves as a primary source for identifying areas with high humanitarian need and determination of targeted response measures to assist war-affected populations.

The geographical scope of this assessment covers the entire territory of Ukraine, all five macro-regions (west, east, north, center, south and the city of Kyiv), with the exception of the Crimean peninsula [6].

The International Organization for Migration has conducted such express surveys several times, which is a positive factor in Ukraine's cooperation with international organizations and contributes to the increase of the world community and states attention in general to the problems of the population social security in Ukraine during the war.

The express assessment made it possible to draw certain conclusions about the problems and needs of the IDPs. In particular, the problem of providing food and nutrition turned out to be important and urgent. It is noted that almost one in five (22.5%) residents of the country reported on a lack of food in

August compared to 20.5% in July. 27% of the IDPs indicated that they lacked food significantly more than other population groups (21% of non-IDPs and returnees). The most acute food insecurity is experienced by (all) respondents in the southern macro-region, where 20% report on food insecurity, what is better in comparison with 30% in the seventh round [7].

Such results of the express survey can be explained by the partial occupation of the southern regions of Ukraine, the destruction of fertile soils and the impossibility of growing crops on them, as well as the impossibility of fully transporting foodstuff to the occupied territories. Such a situation is certainly reminiscent of the Holodomor and the genocide of the Ukrainian people in 1932–1933, and attention should be drawn to this in all possible ways.

The issue of drug availability remains no less relevant. Among all respondents, 27% reported that they personally or someone in their family had to stop taking medicine because of the war. Among them, 68% indicated that they could not get medicines due to their inaccessibility, 63% could not afford to buy them due to lack of money (respondents could indicate several reasons). Among the IDPs, a large proportion (32%) reported that they or their family members had stopped taking medication because of the war.

In our opinion, it is necessary to strengthen state control and its implementation by the relevant obliged persons in the sphere of trade in medical products, as well as in compliance with the free supply of certain medicines to those categories of persons whose list is established by the legislation of Ukraine.

Today, Ukrainians have a need for psychosocial support, mental and psychological health hygiene. This problem is relevant not only for the internally displaced persons, but also for Ukrainians in general who have experienced extremely powerful stress and are in constant expectation of negativity and fear for their lives and the lives of their loved ones.

Psychological support services work quite actively. Work with the population is carried out through a free psychological support hotline, volunteer activities of specialists in the field of psychiatry and psychology.

It is also important to emphasize that the housing needs of the internally displaced persons are becoming more urgent, as the material assistance provided to them and the population's savings cannot cover the costs associated with long-term displacement. UNHCR emphasizes that housing of the IDPs in collective centers can cause dependency and weaken the ability of the internally displaced persons to manage their own lives, which exacerbates the trauma of displacement and creates barriers to integration. Therefore, the authorities are recommended to develop a systematic and visionary approach in response to these needs [7].

Undoubtedly, the problem of providing housing is multifaceted and entails certain negative consequences, in particular, of a psychological nature. Two problems can be noted:

- an internally displaced person may negatively perceive the new place of residence, as it will not have the desired comfort, or the living conditions will be radically different from the ones they are used to;

- an internally displaced person can "get used" to the fact that the relevant services provide his/her basic needs for housing, food, etc., and his/her need and desire for self-realization, for active life, will really disappear, and this can lead to manifestations of marginal behavior.

Also, there have been certain changes in the field of employment under martial law for the internally displaced persons.

On May 7, 2022, the Law of Ukraine "On Amendments to Certain Laws of Ukraine Regarding the Functioning of the Employment Spheres and Mandatory State Social Insurance in Case of Unemployment During Martial Law" as of April 21, 2022 No. 2220-IX entered into force. The aforementioned Law No. 2220 introduced changes and additions to the Laws of Ukraine "On Ensuring the Rights and Freedoms

of the Internally Displaced Persons", "On General Mandatory State Social Insurance in Case of Unemployment" and "On Employment of the Population".

We are talking about the peculiarities of unilaterally terminating an employment contract, namely that an internally displaced person who did not have the opportunity to terminate an employment contract (another type of employment) in accordance with the legislation of Ukraine due to the impossibility of continuing work under such an employment contract (other type of employment) at the previous place of residence, in order to acquire the status of unemployed and receive unemployment benefits and social services under the mandatory state social insurance in case of unemployment, has the right to terminate such an employment contract unilaterally by submitting application to the employment center at the place of residence of the internally displaced person's in the name of the employer about the termination of the employment contract.

The date of the employment contract termination is the day following the day of such application submission. The employment center at the place of residence of the internally displaced person on the day of the employment contract termination notifies: the employer (by any means of communi-

cation, including electronic); territorial body of the Pension Fund of Ukraine; territorial body of the State Tax Service [8].

The issue of the realization of the right to work by the internally displaced persons is very urgent and requires an active solution. Regions where the majority of the IDPs live cannot fully provide the need for jobs for all those in need. Therefore, the possibility of the IDPs involvement through employment centers in the reconstruction of de-occupied, destroyed territories should be noted as a positive point. This, of course, is not a solution to the problem, but as one of the options for employment of people during the war, it is quite relevant.

It is necessary at the national level to stimulate private entrepreneurs to provide a certain percentage of the total number of jobs to the internally displaced persons.

So, today in Ukraine, the issue of guarantees of social and legal support of the internally displaced persons is urgent and requires a comprehensive solution through the participation of state structures, private business and the volunteer movement. Despite this, we should not perceive these people as beggars, because today Ukrainian society is integrated towards victory over the enemy, and one of the components of our success is unity and cooperation in the crisis period of our statehood development.

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