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ON THE ESSENCE OF THE CONCEPT “INTERNALLY DISPLACED PERSON”

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The article describes the essence of the concept of “internally displaced person”. Theoretical and legal approaches to the content of the concept of “internally displaced persons” have been studied. It was established that forced migration plays an important role in the modern world migration process of the population of Ukraine. It is argued that for the first time the term “internally displaced person” was used in jurisprudence in the last decade of the 20th century, when the need for an international response to the rather important problem of protecting the rights of displaced persons definitely arose. Statistical data on the number of internally displaced persons in Ukraine are indicated. It is noted that precisely as a result of military aggression by the Russian Federation on the territory of Ukraine, the problem of forced migration and its solution is one of the main ones for the state and society. It is proven that 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 or in order to avoid negative consequences. It is indicated that internally displaced persons are under the legal protection of their country in accordance with international human rights legislation.

The article indicates the main reasons for forced migration of the population, which encourage citizens to move within the borders of their country. These include, first of all, military conflict, occupation or annexation of territory, cruel treatment, manifestations of violence, genocide of the population, violation of human rights and freedoms, as well as environmental, social, economic, man-made and other causes. It was emphasized that internally displaced persons need to adjust to a new place of residence, which should become safer for them.

It has been studied that the protection of internally displaced persons implies an important obligation for the state to create legal, social and economic conditions for the realization of their rights and freedoms, under which it is possible to protect the rights of individuals, as well as the activities of state organizations for the protection of human rights. The article offers the author’s definition of the essence of the concept of “internally displaced person” in Ukraine.

Keywords: forced migration; military aggression; internally displaced person; resettlement of people; employment; residence; social security.

Formulation of the problem. In today’s conditions, the problem of forced migration of internally displaced persons (hereinafter referred to as IDPs) due to the military aggression of the Russian Federation on the territory of Ukraine is relevant. It is precisely because of the increase in forced internal displacement that such a category of citizens as internally displaced persons (hereinafter referred to as IDPs) has become the most vulnerable in social terms. This is caused by the fact that forced migrants have lost their jobs, residences, and medical care and need, above all, places to live, financial support, employment, and other social security measures from the state.

It is worth noting that one of the main reasons for the forced migration of internally displaced persons is objective circumstances caused primarily by military actions in our country. Important for forced migrants is the protection of their rights and interests, as well as the provision of social assistance and the creation of appropriate conditions for living in Ukraine. It is emphasized that it is necessary to find out the meaning and essence of the concept of “internally displaced person”.

Analysis of the study of the problem. Consideration of the essence of the concept of “internally displaced person” became the subject of research by such scientists as: I. S. Basova, N. B. Bolotina, V. G. Butkevich, O. V. Zadorozhnyi, N. S. Isayev, M. I. Malykhi, S. V. Mandzia, M. V. Menzhul, R. I. Najafgulieva, L. R. Nalivaika, M. Nikolaychuk, A. F. Oreshkova, Yu. S. Panina, Yu. I. Rymarenko and others.

The purpose of the article is to study the main features characterizing scientific approaches to the essence of the concept of “internally displaced person”. It is worth noting that to achieve the goal during our research, such methods as: general scientific and special were used. In addition to the methods of scientific knowledge, empirical research methods were used, such as description, comparison.

Presenting main material. It is worth noting that it was the military aggression of the Russian Federation against Ukraine that forced him to change his place of residence and move to other regions of our country.

Therefore, IDPs had to plan adapt to another place of residence, it must become safer for their lives. It should be noted that the term “internally displaced person” was first used in jurisprudence in the last decade of the 20th century, when the need for an international response to the important problem of protecting the rights of displaced persons definitely arose. Then, at the behest of the UN General Assembly and the Human Rights Commission in 1998, the Guiding Principles on Internally Displaced Persons were adopted, which regulate the forced displacement of persons within the country and are guidelines for international and non-governmental organizations [1].

Due to the military aggression of the Russian Federation against Ukraine, which began in 2014, the annexation of the Autonomous Republic of Crimea, the anti-terrorist operation in Donbas, more than 1 million people of Ukraine were forced to leave their homes to save their lives.

It should be noted that due to the problem of the full-scale invasion of the Russian Federation on the territory of Ukraine, which began on February 24, 2022, the implementation of forced migration and its overcoming is the main issue for the state. Approximately 10 million Ukrainian citizens were forced to leave their native homes. This is 1/4 of the country’s population, about 6.5 million Ukrainians became internal migrants and 3.2 million people left Ukraine, according to the results of the International Organization for Migration (hereinafter – IOM) [2].

It is worth noting that a large number of people moved from the East and center of Ukraine to its West. In the first days, long queues formed at the border checkpoints to the countries of the European Union with

which Ukraine borders, primarily to Poland. Every day, up to 150,000 people crossed the state border. No less traffic jams were formed at the exits from the affected large cities bombing already in the first days [3].

According to IOM estimates, the largest share of people moved to the western macro region – more than 2.5 million people. Data published by state administrations in the western regions of Ukraine, however, do not match these estimates. Such a difference can be explained by the fact that only a part of people considers it necessary to notify local authorities of their arrival, most likely, registration takes place in cases when the arrivals apply for help with settlement or for humanitarian aid [2].

It is worth noting, in 2021, about 1.46 million IDPs from the temporarily occupied territories of Luhansk and Donetsk regions, the Autonomous Republic of Crimea and Sevastopol were registered. The largest number of IDPs was in Donetsk (512,000) and Luhansk (282,000) regions, in Kyiv (163,000), and in Kharkov (136,000) regions, according to the Ministry of Social Policy of Ukraine [3].

Residents of the eastern and central territories of Ukraine were forced to leave everything they had, all their achievements due to danger, as well as threats to their lives and health. Therefore, for a more meaningful understanding of such a category as “internally displaced persons”, it is worth analyzing the elements that characterize their legal status and the reasons that became the basis for establishing the status of an internally displaced person.

It is worth noting that an “internally displaced person” is not only a citizen of Ukraine, but also a foreigner or a stateless person residing on the territory of Ukraine and has the right to residence. And also a person who is forced to leave his native place of residence due to problems related to armed conflict or temporary occupation, etc. [4].

In our opinion pointing out that in the legal literature there are such theoretical views regarding of the concept of an internally displaced person.

In particular, according to M. Nikolaychuk, “internally displaced persons are a specific target group for the implementation of migration policy, which is characterized by heterogeneous characteristics, determined by special needs, personal characteristics and influences of the external environment” [5, p. 109]. However, M. V. Menzhul and Y. S. Panina “define the concept of “internally displaced persons” as persons who permanently lived in a certain territory of the state (including citizens, stateless persons, as well as foreigners) and were forced to leave their place of permanent and resettlement within the borders of this same state in connection with a real threat to the life and health of their personal or family members, mass violations of human rights, persecution as a result of military operations, mass manifestations of violence, armed conflicts, man-made or natural emergencies”. [6, p. 296].

It is worth agreeing with the opinion of I. S. Basova, that “an internally displaced person is a natural person who, as a result of objective circumstances caused by military actions, occupation or annexation of territory, natural or man-made emergencies, has changed his place of residence within state-recognized borders and acquired the appropriate legal status in accordance with the legislation” [7].

As M. I. Malykha notes, “IDPs are citizens of the state who, due to military actions and their consequences, left its own their permanent place of residence in order to secure their lives, while not crossing the state border” [8].

V. I. Mykhaylovsky defines the concept of “internally displaced person” noting that “this is a person who is a citizen of Ukraine, a stateless person or a foreigner who is in the territory of Ukraine on legal grounds and is forced and/or forced to leave his home or his permanent place of residence, in particular, as a result of or with the aim of avoiding the consequences of an armed conflict, constant manifestations of violence, natural disasters, violations of human rights, occupation of the territory by a foreign state, violations of the norms of international humanitarian law or other circumstances originating from previous situations, which can radically change the social order” [9].

Thus, Yu. I. Rymarenko believed that “an internally displaced person is a person who is forcibly displaced from his place of permanent residence within his country as a result of armed conflict, internal disorder, systematic violation of human rights, as well as a result of natural disasters” [10, p. 95].

L.R. Nalivayko and A.F. Oreshkova identify an internally displaced person first as a citizen of Ukraine, as well as a citizen of another state or a stateless person who is legally present on the territory of Ukraine and has the right to permanent residence, who was forced to leave permanent residence within the internationally recognized borders of the state as a result of: fear of becoming a victim of persecution, impossibility to fully enjoy the protection guaranteed by the legislation of Ukraine in the place of permanent residence; the existence of a threat to one's life or family members, safety or freedom; feeling the effects of violence on yourself or your family members in situations armed conflicts or frequent violation of human rights; foreign occupation; armed problems on a national basis that disturb public order in the place of his permanent residence; emergency situations of a natural or man-made nature” [11, p. 38].

In his dissertation research on the topic: “Administrative and legal status of refugees and forced migrants in the Republic of Azerbaijan”, R. I. Najafgulyev emphasizes the fact that “under the concept of “internally displaced person”, we should understand a person who is a citizen of his country, but forced to leave the place of permanent residence and move to another place as a result of military aggression, natural or man-made disaster” [12]. The author refers to the main reasons that forced internally displaced persons to migrate: military aggression, natural or man-made disasters. It is worth noting that we are talking only about citizens of the Republic of Azerbaijan.

N.S. Isayev offers a fairly wide list of reasons that characterize the legal and administrative status of IDPs, noting that “IDPs are persons who left their place of permanent residence within state borders due to the influence or threat of influence of mass armed conflicts (clashes, pogroms) on the basis of ethnic, racial, religious, gender, political or any other differences, hostilities, epidemics, natural or man-made disasters” [13, p. 73].

According to S. V. Mandziy, “the concept of “internally displaced person” should be considered taking into account the fact that this is a natural person who is in the territory of Ukraine on legally and has the right to permanent residence in Ukraine and who, as a result of objective negative factors of a military-political, natural or man-made nature, changed its place of residence within the administrative-territorial units of Ukraine without crossing the internationally recognized state border and acquired the appropriate legal status in accordance with the legislation of Ukraine” [14, p. 74].

Thus, the content and essence of the concept of “internally displaced person” indicates that these are primarily people who were forced to leave their hometown, escaping from danger, but did not cross the international border, but remained in the territory of their native country. It should be noted that IDPs are under the legal protection of their government and therefore retain all rights and protections in accordance with international human rights legislation. Therefore, the meaning of the concept of the “internally displaced person” becomes important and requires legal and social protection of their rights and freedoms from the state.

Conclusions. Summarizing, it should be noted that the meaning and essence of the concept of an “internally displaced person” is not a permanent legal definition, but depends primarily on the circumstances and conditions of its application, as well as the influence of factors and reasons that are negative sources in the formation of a conflict situation (political, economic, social, ecological and military content) and its impact on the forced displacement of citizens. Therefore, internally displaced persons move within the borders of one state under the influence of various factors that create danger or make it impossible to live in a certain territory.

Therefore, internally displaced persons are citizens of the country, foreigners, stateless persons who permanently or temporarily live on the territory of Ukraine and are forced to voluntarily or forcibly carry out internal displacement within the borders of their country for reasons of an objective nature that threaten their life and health.

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ПРО СУТНІСТЬ ПОНЯТТЯ “ВНУТРІШНЬО ПЕРЕМІЩЕНА ОСОБА”

У статті охарактеризовано сутність поняття “внутрішньо переміщена особа”. Досліджено теоретико-правові підходи щодо змісту поняття “внутрішньо переміщених осіб”. Констатовано, що вимушена міграція відіграє важливу роль у сучасному світовому міграційному процесі населення України.

Аргументовано про те, що вперше термін “внутрішньо переміщена особа” в юриспруденції почав застосовуватись в останнє десятиліття ХХ століття, коли безумовно виникла необхідність міжнародної реакції на досить важливу проблему захисту прав переміщених осіб. Вказано статистичні дані щодо кількості внутрішньо переміщених осіб в Україні. Зазначено, що саме внаслідок військової агресії зі сторони Російської Федерації на територію України проблема вимушеної міграції та її розв’язання є однією з головних для держави та суспільства. Доведено, що внутрішньо переміщеною особою є громадянин України, іноземець або особа без громадянства, які знаходяться на території України на законних підставах та мають право на постійне проживання в Україні, яку змусили залишити або покинути своє місце проживання у результаті або з метою уникнення негативних наслідків. Вказано про те, що внутрішньо переміщені особи перебувають під правовим захистом своєї країни відповідно до міжнародного законодавства з прав людини.

У статті зазначено основні причини вимушеної міграції населення, що спонукають громадян до переміщення в межах своєї країни. До них варто віднести насамперед, військовий конфлікт, окупація чи анексія території, жорстоке поводження, прояви насильства, геноцид населення, порушення прав та свобод людини, а також екологічні, соціальні, економічні, техногенні та інші причини. Наголошено, про те, що внутрішньо переміщеним особам необхідно прилаштуватися до нового місця проживання, яке має стати для них безпечнішим.

Досліджено про те, що захист внутрішньо переміщених осіб, передбачає важливий обов’язок для держави створювати правові, соціально-економічні умови для реалізації їхніх прав і свобод, за яких можливо захистити права осіб, а також діяльність державних організацій із захисту прав людини. У статті запропоновано авторське визначення сутності поняття “внутрішньо переміщена особа” в Україні.

Ключові слова: вимушена міграція; військова агресія; внутрішньо переміщена особа; переселення людей; працевлаштування; проживання; соціальне забезпечення.