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GUARANTEE OF THE RIGHTS AND FREEDOMS OF INTERNALLY DISPLACED PERSONS IN UKRAINE UNDER CONDITIONS OF WARTIME: GENERAL CHARACTERISTICS

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Кулініч О.О. Гарантування прав і свобод внутрішньо переміщених осіб в Україні в умовах воєнного стану: загальна характеристика.

У статті обґрунтована українська система гарантій прав і свобод внутрішньо переміщених осіб для визначення напрямів підвищення їх ефективності в умовах воєнного стану. Дослідження правового статусу внутрішньо переміщених осіб в Україні проводяться починаючи з 2014 року, але нова хвиля вимушеного переміщення спровокувала численні зміни і трансформації цього спеціального статусу. Повномасштабне вторгнення росії спровокувало численні нові проблеми, тому вкрай необхідним є подальше дослідження та обґрунтування гарантій прав і свобод внутрішньо переміщених осіб.

До загальних гарантій слід віднести політичні, економічні, соціальні, ідеологічні та культурні гарантії. До спеціальних (юридичних) гарантій пропонуємо віднести нормативно-правові та організаційно-правові. Ефективність гарантування залежить від взаємопов'язаності всіх видів гарантій та їх злагодженого функціонування. Розвиток нормативно-правових та інституційних гарантій, чітко обумовлений існуванням ряду загальноправових гарантій (політичних, економічних, соціальних, культурних та ідеологічних). Існування перших, в свою чергу, уможлиблює детальну реалізацію других, що відображається у прийнятих нормативно-правових актах.

Умовою відновлення порушених прав і свобод українців, отримання справедливої сатисфакції є розслідування багаточисленних злочинів та порушень міжнародного права, а також притягнення до відповідальності злочинців.

В умовах воєнного стану, прийняття законів відбувається дуже оперативним і у надзвичайних масштабах, що є виправданим. Але такі темпи не співрозмірні з звичними очікуваннями суспільства від правового регулювання. Отож, важливим є широке інформування на загальнодержавному та муніципальному рівнях про зміни у законодавстві, особливо в інтересах внутрішньо переміщених осіб.

Ключові слова: правовий статус, внутрішньо переміщені особи, права і свободи людини, гарантій, загальні та спеціальні гарантії

Kulinich O.O. Guaranteeing the rights and freedoms of internally displaced persons in Ukraine under martial law: general characteristics.

The article substantiates the Ukrainian system of guarantees of the rights and freedoms of internally displaced persons to determine ways to increase their effectiveness in martial law. Research on the legal status of IDPs in Ukraine has been conducted since 2014, but a new wave of forced displacement has provoked numerous changes and transformations in this special status. In addition, Russia's full-scale invasion has caused countless new challenges. Therefore, further research and justification of the legal status of IDPs are essential.

General guarantees include political, economic, social, ideological and cultural guarantees. We propose to include normative-legal and organizational-legal to special (legal) guarantees. The effectiveness of the guarantee depends on the interconnectedness of all types of guarantees and their coordinated functioning. Development of normative-legal and institutional guarantees, clearly conditioned by the existence of a number of general legal guarantees (political, economic, social, cultural and ideological).

The condition for restoring the violated rights and freedoms of Ukrainians, obtaining fair satisfaction is the investigation of numerous crimes and violations of international law, as well as the prosecution of criminals.

Under martial law, laws are passed quickly and on an extraordinary scale, which is justified. But such rates are not commensurate with society's usual expectations of legal regulation. Therefore, it is essential to be widely informed at the national and municipal levels about changes in legislation, especially in the interests of internally displaced persons. One of the conditions for evacuating civilians from the war zone and blocked territories is confidence in support and protection from the

state and society. It is vital to minimise bureaucratic procedures and simplify administrative and social services access.

Key words: legal status, internally displaced persons, human rights and freedoms, guarantees, general and special guarantees

Formulation of the problem. The urgency of the study of ensuring the quality of the legal status of internally displaced persons is related to the consequences of the Russian aggression, which began in 2014 and continues to this day. Russian troops' full-scale invasion of Ukraine on February 24, 2022, sparked a new, large-scale wave of forced relocation by millions of Ukrainians who, saving their lives and family members, were forced to relocate in search of security and adapt today's realities.

Internally displaced persons need special attention and assistance from the state, concerned citizens, civil society organisations and the international community.

Research on the legal status of IDPs in Ukraine has been conducted since 2014, but a new wave of forced displacement has provoked numerous changes and transformations in this special status. In addition, Russia's full-scale invasion has caused countless new challenges. Therefore, further research and justification of the legal status of IDPs are essential.

The state of elaboration of the problem. Certain aspects of ensuring the rights and freedoms and realisation of responsibilities of internally displaced persons in Ukraine were studied by such scientists as E. Gerasimenko, R. Goldman, F. Deng, N. Isayeva, I. Kozynets, K. Krakhmalova, M. Kobets, A. Korshun, M. Malikha, V. Mykytenko, E. Mykytenko, L. Nalyvayko, B. Pirotsky, L. Shestak, M. Sirant, N. Tishchenko and others. However, in modern conditions, this issue does not lose its relevance and requires even more attention from scientists to develop ways to solve it.

The study aims to substantiate the Ukrainian system of guarantees of the rights and freedoms of internally displaced persons to determine ways to increase their effectiveness in martial law.

Presentation of the primary material. Since the beginning of the occupation of the Crimean Peninsula and the armed conflict in the Donetsk and Luhansk regions, Ukraine has faced a humanitarian crisis - internal forced displacement. However, the state retains all constitutional rights and responsibilities for persons who have been forcibly displaced and provides several benefits for everyday living and development [1]. Russian troops' full-scale invasion of Ukraine on February 24, 2022, sparked a new wave of forced relocation by millions of Ukrainians who, saving their lives and family members, were forced to relocate in search of security and adapt to today's realities. Under such conditions, internally displaced per-

sons need special attention and assistance from the state, concerned citizens, public organisations and the international community [2]. In the context of large-scale internal displacement, the existing guarantees of the rights and freedoms of internally displaced persons have been significantly expanded.

But the basis for building an effective and comprehensive system of guarantees of the rights and freedoms of internally displaced persons should be based on theoretical research, which contributes to the improvement of operational guarantees in the new environment.

The status of internally displaced persons is a unique internal status granted to a person under certain conditions to provide him with additional rights and guarantees to equalise the unsatisfactory situation in which such persons find themselves due to the conflict. The legal status of internally displaced persons corresponds to the structure of the general legal status of a person in Ukraine. Still, the content of the legal status of IDPs differs. One of the substantive parts of this status is that a person receives a set of rights and freedoms essential for living in conditions created by the conflict with its acquisition.

The paramount importance in ensuring the rights and freedoms of IDPs belongs to the system of the current legislation of Ukraine. Legal acts in the field of providing the rights and freedoms of IDPs can be classified according to the following criteria: the subject of legal regulation (Law of Ukraine "On Ensuring the Rights and Freedoms of Internally Displaced Persons" and regulate relations in this area indirectly, for example, Law of Ukraine and free choice of place of residence"), by persons, by legal force (Constitution of Ukraine, laws, international acts, bylaws - resolutions of the Verkhovna Rada of Ukraine, decrees of the President of Ukraine, solutions of the Cabinet of Ministers of Ukraine, acts of ministries and local state administrations, decisions of local governments). Despite the significant number of international legal acts, the leading role in ensuring IDPs' rights is the state's national legislation within which migration processes occur.

The forced relocation of citizens leads to problems with their living, medical care, psychological rehabilitation, employment, education, and socio-cultural reintegration. There is a lack of initiative and capacity to fully implement public measures and private initiatives to support the legal status of internally displaced persons fully.

The mechanism for ensuring the rights and freedoms of internally displaced persons includes guarantees of rights that enable the latter to be realised. There are different definitions and criteria for classifying such guarantees, so they deserve attention in the context of this study. The purpose of

guaranteeing the rights and freedoms of internally displaced persons is to ensure their reality and accessibility.

The effectiveness of the guarantee depends on the interconnectedness of all types of guarantees and their coordinated functioning. The development of normative-legal and institutional guarantees is conditioned by several general legal guarantees (political, economic, social, cultural and ideological). The existence of the former, in turn, allows for the detailed implementation of the latter, which is reflected in the adopted regulations.

Guarantees of human and civil rights and freedoms constitute a system of general and special legal means and institutions to create conditions for realising human rights and ensure their comprehensive protection and protection against violations [3, p. 468]. For the successful implementation of the human and civil rights and freedoms enshrined in the Constitution of Ukraine, we need, above all, circumstances that consist of many subjective and objective factors designed to provide favourable conditions for the realisation of rights and freedoms [4, p. 182]. Without guarantees of the rights, freedoms and responsibilities of man and citizens are transformed into «statements of intent” that have no value for the individual or society [5, p. 227]. Guarantees of rights and freedoms provide an effective mechanism for realising the capabilities of the individual but also, if necessary, can be aimed at protecting illegally restricted or violated rights and freedoms.

We propose to understand the concept of guarantees of constitutional rights and freedoms of internally displaced persons as a set of objective and subjective factors, as well as a set of conditions, methods and means aimed at full and effective implementation, protection and protection of rights and freedoms of internally displaced persons and overcoming the consequences of their improper performance and developing the latest concepts of protection of these categories of persons by the state and other authorised entities. Such guarantees are characterised by regulatory consolidation; systematic and structured, purposefulness, reality and expediency, universality, efficiency, and consistency.

It should be added that the effectiveness of the mechanism for guaranteeing the constitutional rights and freedoms of internally displaced persons is influenced by such factors as the level of development of democratic institutions and common law principles in the state, the functioning of civil society, the dynamic development of the political, economic and social system. It ensures highly effective constitutional control over the process of guaranteeing the rights and freedoms of this category of persons.

The division of guarantees into general (political, economic, social, ideological and cultural) and special (legal) is traditional [3, p. 468; 6, p. 246; 7, p. 368; 8, p. 15; 9, p. 171; 10, p. 117; 11, p. 26; 12, p. 154]. General guarantees are conditions that have developed in various spheres of public life and create a favourable environment for ensuring the rights and freedoms of internally displaced persons. Political guarantees of human and civil rights and freedoms are a set of political factors of public and state life (sovereignty of the people, which is exercised by representative bodies, introduction of democratic principles in the organisation and activities of the state apparatus, multiparty system, pluralism and publicity, etc.). Economic guarantees are defined as a set of economic factors of society (the level of perfection of economic relations, the rational system of the state, material and financial resources, etc.) [13]. Social guarantees are social means enshrined in constitutional norms and conditions for exercising rights, freedoms and legitimate interests of man and citizen [14, p. 403; 17]. Under the ideological guarantees, understand the political and legal consciousness, the spiritual culture of the objects of social relations, and the recognition of universal values [15, p. 134; 16].

Special (legal) guarantees are organisational and legal, and regulatory conditions and means provided by law to effectively ensure these rights in practice. Legal guarantees are vital for protecting and safeguarding the rights and freedoms of internally displaced persons, as they meaningfully constitute an internally agreed complex system of means, methods, conditions, and principles and norms aimed at implementation, protection and protection-of rights and freedoms of internally displaced persons and their implementation in various spheres of public life.

Normative guarantees of human and civil rights and freedoms can function at the national level - defined in the Constitution and Laws of Ukraine, other bylaws, and at the international level - in the normative legal acts created by the international community, common standards of rights are developed. Man. Regulatory guarantees of the rights and freedoms of internally displaced persons are a system of legal norms defined at the international and national levels, which are the means, methods or conditions for exercising the rights and freedoms of internally displaced persons in Ukraine.

Such guarantees are divided into international and national (constitutional and legislative). They are formulated and enshrined in the Laws of Ukraine and bylaws. International legal guarantees are enshrined in such documents as the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the Convention for the Protection of Human Rights

Fundamental Freedoms, the Refugee Convention and more.

First of all, national legal guarantees are provided by the Constitution of Ukraine. The guarantee is achieved through the stability of the Basic Law, as amendments to it and its replacement are quite a long and complex legislative process. Chapter II of the Constitution of Ukraine establishes a list of human and civil rights and freedoms, including internally displaced persons. The Constitution of Ukraine enshrines normative and legal guarantees of the rights and freedoms of internally displaced persons on a general basis. Such guarantees apply to all persons, regardless of their special legal status.

We propose considering the organisational and legal guarantees of the rights and freedoms of internally displaced persons as an internally coherent complex system of institutions, which includes public authorities and civil society institutions whose activities are aimed at ensuring, exercising and protecting the rights and freedoms of internally displaced persons. Today the system of organisational and legal guarantees in Ukraine consists of: the Verkhovna Rada of Ukraine, the President of Ukraine; The Cabinet of Ministers of Ukraine, ministries and other executive bodies; local state administrations and local self-government bodies; courts and the prosecutor's office, the Commissioner for Human Rights of the Verkhovna Rada of Ukraine; advocacy, civil society institutions.

Currently, the issue of IDP integration is not as acute as in the case of the first waves of relocation before 24.02.22 [18; 19], as forced relocation is expected to be temporary. Therefore, compensation for lost housing and property and non-property damage remains a priority issue in the postwar period.

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Conclusions. General guarantees include political, economic, social, ideological and cultural guarantees. We propose to include normative-legal and organizational-legal to special (legal) guarantees. Regulatory and legal guarantees of the rights and freedoms of internally displaced persons are a system of legal norms defined at the international and national levels, which are the means, methods or conditions for exercising the rights and freedoms of

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