

LEGAL BASIS AND INTERNATIONAL STANDARDS FOR ENSURING THE RIGHTS AND FREEDOMS OF INTERNALLY DISPLACED PERSONS BY LOCAL GOVERNMENT BODIES

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Annotation. The article is devoted to researching the legal foundations and international standards of ensuring the rights and freedoms of internally displaced persons by local self-government bodies. The article draws attention to the fact that the relevance of the study of international legislation regarding the status of internally displaced persons is determined by the degree of analysis of international legal acts related to the protection of internally displaced persons and the procedure for their reception and accommodation by local self-government bodies, as well as the identification of interesting positions on the determination of the status of internally displaced persons in some foreign countries with the possibility of their introduction into national legislative practice. It is concluded that due to the rapid spread of forced internal displacement around the world, the million number of internally displaced persons in Ukraine, the need to create a single international document, for example, the UN Convention on the Protection of the Rights and Freedoms of Internally Displaced Persons, is ripe. Attention is drawn to the fact that Ukraine can initiate the creation of such a document, since it is at the center of problems related to mass internal displacement of persons and is actively considering ways to solve them, including the creation of a special legislative framework and the provision of legal and social guarantees. The article emphasizes that in order to effectively solve these issues, it is necessary to hold joint discussions with the participation of international organizations and state authorities, local self-governments and public organizations of Ukraine, which are involved in this process. Decisions related to the improvement of the legal regulation of ensuring the rights and freedoms of internally displaced persons should be made taking into account international standards for the protection of human rights and norms of international humanitarian law, as well as taking into account the national experience and the experience of other countries regarding the activities of local authorities in this sphere.

Key words: international standards, rights and freedoms, an internally displaced person, security, international law, local self-government bodies.

1. Introduction.

Today, the issues of internally displaced persons and the protection of their rights are gaining global importance and require effective measures not only at the national level, but also at the international level. Ukraine has been facing these problems since 2014, and the issues of internally displaced persons remain relevant even now. At that time, the national legislation underwent significant changes. However, today, the study of international experience in ensuring the rights and freedoms of internally displaced persons by local self-government bodies is becoming important for domestic legislation and ways of its improvement.

The relevance of the study of international legislation regarding the status of internally displaced persons is determined by the degree of analysis of international legal acts that relate to the protection of internally displaced persons and the procedures for their reception and accommodation by local

self-government bodies, as well as the identification of interesting positions on the determination of the status of internally displaced persons in some foreign countries with the possibility of their introduction into national legislative practice.

2. Analysis of scientific publications.

Scientists such as I.S. Basova, I.M. Kaliushchenko, O.M. Malinovska, M.V. Medjul, L.V. Shestak, L.V. Shchedinina and others. Along with this, the issue of researching legal foundations and international standards for ensuring the rights and freedoms of internally displaced persons by local self-government bodies. An appropriate analysis of domestic and international legislation requires additional attention.

3. The aim of the work.

The purpose of the article is to study the norms of international law on issues related to ensuring the rights and freedoms of internally displaced persons and the role of local self-government bodies in these processes.

4. Review and discussion.

Since 2014, Ukraine has been in a state of undeclared war. At the beginning of 2016, there were approximately 1.7 million internally displaced persons in Ukraine. Among them, according to approximate estimates, several tens of thousands of people are from Crimea, the rest – from the east of Ukraine. About 60% of internally displaced persons are pensioners, 25% are able-bodied persons, 10% are children and 5% are disabled persons. With 1.7 million internally displaced persons (for comparison: a total of 28 million such persons in the world), Ukraine is among the five countries with the largest number of internally displaced persons [1]. Part of the territory of our state is illegally annexed and temporarily occupied by the Russian Federation, and hostilities are taking place in part of it. The start of active hostilities after February 24, 2022, the introduction of martial law in Ukraine caused mass displacement - citizens left their homes in search of safety and protection. Currently, the number of officially registered internally displaced persons in the country reaches 4.9 million people [2].

Local self-government bodies play an important role in ensuring the rights and freedoms of internally displaced persons. At the same time, in accordance with international standards, the provision of the rights and freedoms of internally displaced persons by local self-government bodies in a broad sense represents the implementation of the relevant norms and standards of international law, compliance with their principles in their activities regarding the protection of the rights and freedoms of internally displaced persons. In a narrow sense, it is an algorithm of activities of local self-government bodies based on the norms of international law, aimed at ensuring the implementation, guarantee, protection and protection of the rights and freedoms of internally displaced persons.

Implementation of norms and standards for ensuring the rights and freedoms of internally displaced persons in the activities of local self-government bodies consists of the following components: 1) norms and principles of international law that regulate relations involving internally displaced persons; 2) international organizations and bodies that ensure implementation, protection and protection of relations with the participation of internally displaced persons; 3) international means, methods and tools, the use of which allows ensuring the rights and freedoms of internally displaced persons.

The norms and standards of international law in the field of ensuring the rights and freedoms of internally displaced persons by local self-government bodies include such as the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, social and cultural rights (1966), Declaration of the Rights of the Child (1959), Convention on the Status of Refugees (1951), UNHCR Guidelines for Working with Elderly Persons in Conditions of Displacement, Working with Persons whose Physical Capabilities limited in terms of

movement and others. These international documents generally regulate the issue of ensuring the rights and freedoms of internally displaced persons. They are basic international documents.

A special document that regulates the status of internally displaced persons can be considered the UN Guiding Principles on Internal Displacement of Persons, 1998 (hereinafter – Guiding Principles) [3]. These principles reflect international norms related to human rights and provisions of international humanitarian law, as well as principles that apply to internally displaced persons. The development of these guidelines became necessary due to the fragmented nature of current international norms in the field of the rights of internally displaced persons, their lack of clarity and gaps in the regulation of the status of such persons.

Despite the large number of international documents that define the standards and principles of ensuring the rights and freedoms of people and refugees, it should be noted that there is no single international legal document that would define the standards, rights and obligations of national states to ensure the rights and freedoms of internally displaced persons, including in the activities of local self-government bodies, does not have. The main document on ensuring the rights and freedoms of internally displaced persons remains the Guiding Principles, which, although they define certain standards and criteria in this area and should be considered as a unified document, do not have a universally binding meaning for national states. International recognition of the Guiding Principles was carried out in almost 20 countries of the world whose legislation includes the standards contained in the Guiding Principles on Internally Displaced Persons [4].

The Guiding Principles state that it is the duty of the state to ensure the rights and freedoms of internally displaced persons. The state is also responsible for this. It is interesting to study domestic legislation on ensuring the rights and freedoms of internally displaced persons in relation to its compliance with the Guidelines. In this aspect, it is worth referring to the study of O. Rogach and Yu. Panina, who analyzed Ukrainian legislation according to international standards for the protection of the rights of internally displaced persons [5].

The conclusions of this study are valid. Thus, O. Rogach and Yu. Panina conclude that, for the most part, the provisions of the current legislation of Ukraine in the field of protection of the rights and interests of internally displaced persons correspond to the content of the Guidelines. However, a number of important principles were not enshrined either in the Law of Ukraine “On Ensuring the Rights and Freedoms of Internally Displaced Persons” or in other normative legal acts of Ukraine [5, p. 182].

For example, you can cite the following caveats of the above-mentioned researchers. Principle 7 of the Guidelines obliges state authorities to take all possible measures to avoid making a decision on internal displacement of persons, and if there are no alternative options, to minimize the negative consequences of such displacement. In the context of the analyzed principle, it should be noted that Ukrainian legislation does not provide for the internal transfer of persons on the basis of a decision of a state authority. However, a number of principles of the third section of the Guiding Principles, although generally reflected in Ukrainian legislation, contain such clarifying provisions that are not enshrined in the normative legal acts of Ukraine and are important for ensuring the rights and freedoms of internally displaced persons. Such provisions, in particular, are: guaranteeing internally displaced persons who do not participate or have stopped participating in hostilities, protection from attacks or other acts of violence; prohibition of the use of starvation, anti-personnel land mines against them; prohibition of attacks on their camps and settlements; prohibition of their use as a living obstacle during military operations (part 2 of principle 10); prohibition of forced detention of internally displaced persons in special camps, except in cases of extreme need (part 2 of principle 12); ensuring protection against destruction, as well as against arbitrary or illegal expropriation, appropriation or use of property left by internally displaced persons (part 3 of principle 21) [5; 3].

Along with this one, as stated in part 2 of principle 7 of the Guidelines, the state is obliged to provide displaced persons with adequate conditions in terms of safety, nutrition, health, hygiene, and family unity. Twentieth principle of obligation and responsibility of national authorities to provide humanitarian assistance to internally displaced persons³³. The Law of Ukraine “On Ensuring the Rights and Freedoms of Internally Displaced Persons” even clearly specifies which body is responsible for ensuring the provision of humanitarian aid to the relevant persons – the central body of the executive

power for forming and ensuring the implementation of state policy in the areas of population employment and labor migration, labor relations, social protection, social services for the population, volunteering, family and children issues, children's health and recreation, as well as protection of the rights of deported persons who returned to Ukraine due to their nationality (Part 3 of Article 11) [5; 3].

At the same time, it is worth noting that the vast majority of powers in this area are vested in local self-government bodies. Part nine of Article 11 of the Law of Ukraine "On Ensuring the Rights of Internally Displaced Persons" [6] defines the powers of communities on issues of ensuring the rights and freedoms of internally displaced persons, and the norms of the Basic Law of Ukraine "On Local Self-Government in Ukraine" [7] detail the powers executive bodies of local councils on this issue.

5. Conclusions.

Therefore, given the rapid spread of forced internal displacement around the world, the million number of internally displaced persons in Ukraine, as we are convinced, the need to create a single international document, for example, the UN Convention on the Protection of the Rights and Freedoms of Internally Displaced Persons, is ripe now. In this context, Ukraine can initiate the creation of such a document, as it is at the center of problems related to mass internal displacement of persons and is actively considering ways to solve them, including the creation of a special legislative framework and the provision of legal and social guarantees.

In connection with the rapid growth of problems of a political and humanitarian nature, which are due to the violation of the rights and interests of internally displaced persons, a reaction is required from the side of the entire international community. This makes the issue of creating an effective mechanism for the protection and restoration of the violated legal rights and freedoms of internally displaced persons relevant. It is important to note that this problem is not limited to only theoretical and legal aspects of the internal legislation of the state. It also includes the involvement of international means and measures, in particular, such as unified registration of internally displaced persons, interdepartmental and interstate coordination, cooperation with non-governmental and international organizations, as well as the implementation of international programs and standards for ensuring the rights and freedoms of internally displaced persons.

In order to effectively solve these issues, it is necessary to hold joint discussions with the participation of international organizations and state authorities, local self-governments and public organizations of Ukraine, which are involved in this process. Decisions related to the improvement of the legal regulation of ensuring the rights and freedoms of internally displaced persons should be made taking into account international standards for the protection of human rights and norms of international humanitarian law, as well as taking into account the national experience and the experience of other countries regarding the activities of local authorities in this sphere. As a result of the existence of this problem, there is a need for in-depth analysis, research, and improvement of ensuring the rights and freedoms of internally displaced persons, their status at the national level in accordance with international standards and standards of activities of local authorities of other countries in this area.

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