

ADMINISTRATIVE AND LEGAL REGULATION OF THE STATUS OF INTERNALLY DISPLACED PERSONS IN UKRAINE DURING THE WAR

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A positive step for realizing the rights and guarantees of forced migrants consists in introduction by the Government of Ukraine of the following areas of assistance: monetary assistance, promotion of their employment, introduction of compensation for the costs of paying for communal services for families who sheltered displaced persons free of charge. It has been established that an extremely important role in exercising rights and guarantees of forced migrants belongs to such a public initiative as “Pryklystok” (“Shelter”).

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I INTRODUCTION

The events of recent years, namely the annexation of the Crimea in March 2014 and the armed conflict that began in the east of Ukraine in April 2014, led to a significant and massive displacement of civilians both within the country and abroad. In connection with the beginning of the full-scale war of the Russian Federation against Ukraine in February 2022 the number of internally displaced persons in the country had increased significantly. According to the report of the International Organization for Migration, more than 7.7 million Ukrainians had become internally displaced persons since 24 February, 2022.¹ Minister of Social Policy of Ukraine, Maryna Volodymyrivna Lazebna, reported that as of 25 April, 2022, more than 2

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¹ The impact of a full-scale war on the migration of Ukrainians: how the scale of displacement is assessed by the state of Ukraine and international organizations. 2023. URL: <https://www.oporaua.org/viyina/vpliv-povnomasshtabnoyi-viini-na-migratsiiu-ukrayintsiv-iaak-masshtabi-peremishchennia-otsiniuiut-derzhava-ukrayina-ta-mizhnarodni-organizatsiyi-24523>

million people had been registered as internally displaced persons. She noted that the Unified Information Database on Internally Displaced Persons had information on 3.4 million people. Of them, over 2 million people were forced to move after the introduction of martial law and 1.9 million people were forced to move for the first time.²

After leaving their homes, these individuals not only lost a roof over their heads, but also lost ownership of their property, they were left without work and means of supporting their existence. In connection with this, problematic situations arise and in these situations such persons could not always fully exercise their rights. Therefore, there is a need to determine the main problems of the legal status of internally displaced persons as well as ways to solve such problems, both of which are addressed in this article.³

According to part 1 of Article 1 of the Law of Ukraine “On Ensuring the Rights and Freedoms of Internally Displaced Persons”, 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 or her place of residence as a result of (or in order to avoid negative consequences of) an armed conflict, temporary occupation, widespread manifestations of violence, violations of human rights and natural or man-made emergencies.⁴ Therefore, one of the important circumstances that determine provision of the legal status of an internally displaced person to citizens of Ukraine, foreigners and stateless persons is the need to leave one’s own place of residence against personal will in order to avoid consequences of an armed conflict and the temporary occupation of certain territories of Ukraine, as a result of well-founded fears for own life, health and protection of rights and interests.

However, it should be noted that the term “internally displaced person” does not adequately describe this category of persons. We agree with Y. Lushpiienko, who noted that the term “internally displaced” means a person who has changed his/her location within the state, while the concept of “forced” means a coercive nature and performance of an action against the person’s will under the pressure of circumstances. Therefore, the term “forced migrant” ensures a more successful description of the category of persons who changed their place of residence for reasons beyond their

² The impact of a full-scale war on the migration of Ukrainians: how the scale of displacement is assessed by the state of Ukraine and international organizations. 2023. URL: <https://www.oporaua.org/viyina/vpliv-povnomasshtabnoyi-viini-na-migratsiiu-ukrayintsiv-iak-masshtabi-peremishchennia-otsiniuiut-derzhava-ukrayina-ta-mizhnarodni-organizatsiyi-24523>

³ See also N. Halaburda, Y. Leheza, V. Chalavan, et al, ‘Compliance with the principle of the rule of law in guarantees of ensuring the legality of providing public services in Ukraine’ (2021) 29(4) *Journal of law and political sciences*, 100.

⁴ Law of Ukraine. 2014. on ensuring the rights and freedoms of internally displaced persons: law of ukraine dated 10.20.2014 no. 1706-vii. verkhovna rada information. url: <https://zakon.rada.gov.ua/laws/show/1706-18#top>

control, since the very concept of “forced” in its meaning explains presence of problems as a logical consequence of a certain event.⁵

At the same time, taking into account the dynamic changes in this area, the indicated problems require a more comprehensive and complex analysis, in particular, legal regulation of the status of internally displaced persons in Ukraine is needed.

II FEATURES OF THE LEGAL STATUS OF INTERNALLY DISPLACED PERSONS IN UKRAINE

The category of “internally displaced person” is quite close to the category of “refugee”. The main difference is that the latter leave the country where they are citizens and do not wish to return to their country of permanent residence due to fear of becoming a victim of persecution.⁶

It is worth noting that the concept of “internally displaced person” appeared in the legislation of Ukraine in connection with the accident at the Chernobyl Nuclear Power Plant on 26 April, 1986. As a result of radioactive pollution, approximately 200,000 people were forced to change their place of residence.⁷ In 1986-1987, approximately 15,000 apartments and dormitories for more than 1,000 people, 23,000 buildings, as well as approximately 800 social and cultural institutions were built for immigrants.⁸ The first legislative act on this issue was the Law of the Ukrainian SSR “On the Status and Social Protection of Citizens Affected by the Chernobyl Disaster”, which was adopted only on 28 February, 1991.⁹

We should point out that today the legal status of internally displaced persons is regulated by the Law of Ukraine “On Ensuring the Rights and Freedoms of Internally Displaced Persons”¹⁰. This law directly defines the rights and obligations of internally displaced persons, it establishes economic, social and legal guarantees for protection of their rights and legitimate interests on territory of Ukraine in accordance with the

⁵ Y. Lushpiienko, ‘Constitutional and legal status of refugees and internally displaced persons in Ukraine’ (2017) 2 *Entrepreneurship, economy and law* 188.

⁶ Y. Kobrusieva, Y. Leheza, K. Rudoi, et al, ‘International standards of social protection of internally displaced persons: administrative and criminal aspects’ (2021) 9(3). *Jurnal cita hukum indonesian law journal*. 461.

⁷ Y. D. Delia, ‘Legal characteristics of the definition of the concept of “internally displaced person”’, (2020) 2(71) *Legal Journal of Donbas*, 10.

⁸ T. O. Tsymbalystyi, ‘Legal status of internally displaced persons in Ukraine’ (2019) 4 (20), *Actual problems of jurisprudence*, 126.

⁹ E.J. Villasmil, Y. Leheza, L. Holovii, ‘Reflections for the interdisciplinary study of the Russian Federation’s invasion of Ukraine in 2022’ (2022) 40(73) *Cuestiones políticas*, 16.

¹⁰ I. Dymko, A. Muradian, Y. Leheza, et al, ‘Integrated approach to the development of the effectiveness function of quality control of metal products’ (2017) 6/3 (90) *Eastern European Journal of Enterprise Technologies*, 26.

Constitution of Ukraine, international treaties of Ukraine, as well as the principles and norms of international law.¹¹

The basic (constitutional) rights of internally displaced persons as citizens of Ukraine are enshrined in Chapter II “Human and Citizens' Rights, Freedoms and Duties” of the Constitution of Ukraine.¹²

The Law of Ukraine “On Ensuring the Rights and Freedoms of Internally Displaced Persons” contains a list of rights of this category of persons and guarantees of their implementation. Therefore, the Law provides for the right to receive documents certifying the identity and confirming the citizenship of Ukraine, or documents certifying the person and confirming his/her special status; the right to employment, pension provision, mandatory state social insurance, social services, education; electoral rights.¹³ Article 9 of this Law contains other rights of an internally displaced person, including the following: family unity; assistance by state executive authorities, local self-government bodies and private law entities in the search and reunification of family members who have lost contacts with each other due to internal displacement; information about the fate and location of missing family members and close relatives; reliable information about presence of a threat to life and health in the territory of person’s abandoned place of residence, as well as the place of his/her temporary settlement, the state of the infrastructure and the environment, ensuring person’s rights and freedoms; assistance in moving person’s movable property; assistance in returning to the previous place of residence; provision of medicinal products in cases and according to the procedure defined by the legislation; provision of necessary medical assistance in state and communal health care institutions; placement of children in preschool and general educational institutions; provision of free-of-charge travel for voluntary return to the abandoned place of permanent residence in all types of public transport in the event of the disappearance of the circumstances that caused such displacement; receiving humanitarian and charitable aid.¹⁴

Duties of internally displaced persons have their own specificity, taking into account the peculiarities of the status of such persons. Imposition of such duties is necessary to maintain the relevant status, confirm information and facilitate the provision of these persons of special rights, guarantees, assistance to these persons.¹⁵

¹¹Law of Ukraine.2014. on the registration of internally displaced persons: resolution of the cabinet of ministers of Ukraine dated October 1, 2014 no. 509. url: <https://zakon.rada.gov.ua/laws/show/509-2014-%d0%bf/ed20220427#top>

¹² Law of Ukraine. 1996. The constitution of ukraine dated june 28, 1996. information of the Verkhovna Rada Of Ukraine. no. 30. art. 141

¹³ Law of Ukraine. 2014. On ensuring the rights and freedoms of internally displaced persons: law of Ukraine dated 10.20.2014 no. 1706-vii. Verkhovna rada information. URL: <https://zakon.rada.gov.ua/laws/show/1706-18#top>

¹⁴ Law of Ukraine. 2014. On ensuring the rights and freedoms of internally displaced persons: law of Ukraine dated 10.20.2014 No. 1706-vii. Verkhovna rada information. URL: <https://zakon.rada.gov.ua/laws/show/1706-18#top>

¹⁵ Y. Zhukova, K. Bryl, L. Svystun, et al, ‘Legal regulation of public administration of education and science’ (2023) 41(76) *Cuestiones politicas*, 336.

In our opinion, it is an indisputable fact that forced migrants need various types of assistance, namely: assistance in obtaining pensions, social benefits, finding a job, housing, livelihood, etc.¹⁶ Legal support for this category of persons should be aimed at solving the following basic problems: employment of adult and able-bodied (employable) family members; search for a place of residence, housing, temporary accommodation of internally displaced persons; provision of humanitarian aid; provision of psychological support; organization of leisure; regulation of the work performed by charitable foundations and public organizations providing assistance to internally displaced persons.¹⁷

It is worth noting that in connection with the beginning of the full-scale war of the Russian Federation against Ukraine, the Cabinet of Ministers of Ukraine brought a number of changes to the normative legal acts regulating the issue of ensuring the mechanism for execution of the rights of internally displaced persons.¹⁸

According to the data of the Ministry of Foreign Affairs, as of February 1, 2023, the total number of Ukrainian citizens living abroad is almost 8 million (7,989,027). About 5.84 million (5,841,619) of them are adult citizens of Ukraine. At the same time, as of December 12, 2022, there were 448,592 citizens of Ukraine on the consular register.¹⁹

The number of registered citizens of Ukraine abroad as of January 1, 2023 in connection with Russia's invasion of Ukraine

Country	Number of citizens of Ukraine residing abroad (as of February 1, 2023)	The number of citizens of Ukraine who are on the consular register (as of 01.01.2023)
Poland	1 786 000	67 000
Germany	1 200 000	101 416
USA	894 665	42 336
Czech Republic	631 705	no information available

¹⁶ Y. Leheza, V. Liudvik, A. Filipp, 'Interacción de los cuerpos y fuerzas de seguridad de Ucrania en la revelación de delitos y crímenes:: normas internacionales y experiencia extranjera' (2023) 25(2) *Dixi*, 1. 6

¹⁷ A. Matviichuk, V. Shcherbak, V. Sirko, et al 'Human principles of law as a universal normative framework' (2022) 40(75), *Cuestiones políticas*, 221.

¹⁸ V. Tylchuk, T. Matselyk, V. Hryshchuk, et al. 'Administrative and legal regulation of public financial activity' (2022) 40(72) *Cuestiones políticas*, 573.

¹⁹ The impact of a full-scale war on the migration of Ukrainians: how the scale of displacement is assessed by the state of Ukraine and international organizations. 2023. URL: <https://www.oporaua.org/viyina/vpliv-povnomasshtabnoyi-viini-na-migratsiiu-ukrayintsiv-iak-masshtabi-peremishchennia-otsiniuiut-derzhava-ukrayina-ta-mizhnarodni-organizatsiyi-24523>

Italy	400023	no information available
Canada	311 351	5 060
Spain	270 000	no information available
Israel	220 000	no information available
Hungary	175 500	7 195
Moldova	158 613	68 699
Slovakia	148 678	9 377
France	147 253	no information available
United Kingdom	140 300	no information available
Romania	126 165	931
Greece	100 942	no information available
Austria	97 002	no information available
Netherlands	95 000	no information available
Portugal	87 250	no information available
Estonia	74 980	5 503
Lithuania	61 487	36 874
Latvia	34 531	1 906
Georgia	31 398	no information available
Other countries	796 184	102 295
In total	7 989 027	448 592

Therefore, the legislation currently provides for two methods of obtaining a registration certificate of an internally displaced person, which is the main document

confirming the fact of internal displacement.²⁰ Before the start of the full-scale war, in order to obtain such a certificate, these persons had to personally or through a representative apply for registration to the structural unit for social protection of the population of district, district in Kyiv state administrations, executive bodies of city, district in cities (in the case formation) councils.²¹ During the period of martial law, an internally displaced person can also apply to the authorized person of the executive body of the village, settlement, city council or administrative services center to obtain the respective certificate.²²

The number of registered internally displaced persons in Ukraine as of January 1, 2023²³

Region	Personal	Children (persons under 18 years old)
Vinnitsia region	182 738	54 219
Volyn region	60 160	18 028
Luhansk region	277 700	18 875
Dnipropetrovsk region	442 323	99 032
Lviv region	257 066	76 163
Donetsk region	521 362	48 645
Poltava	222,452	51 154
Zhytomyr region	111 220	32 677
Transcarpathian region	156 478	53 477
Zaporizhzhia region	201 337	41 616
Ivano-Frankivsk region	145 678	46 320

²⁰ I. Odyntsova, K. Berezhna, N. Yuzikova, et al, 'International legal standards for providing public services in combating corruption' (2021) 27(2) *Journal of law and political sciences* 275.

²¹ Y. Leheza, V. Filatov, V. Varava, et al, 'Scientific and practical analysis of administrative jurisdiction in the light of adoption of the new code of administrative procedure of Ukraine', (2019) 22(5) *Journal of Legal, Ethical and Regulatory Issues*.

²² Law of Ukraine. 2014. On ensuring the rights and freedoms of internally displaced persons: law of Ukraine dated 10.20.2014 No. 1706-vii. Verkhovna rada information. URL: <https://zakon.rada.gov.ua/laws/show/1706-18#top>

²³ The impact of a full-scale war on the migration of Ukrainians: how the scale of displacement is assessed by the state of Ukraine and international organizations. 2023. URL: <https://www.oporaua.org/viyna/vpliv-povnomasshtabnoyi-viini-na-migratsiiu-ukrayintsiv-iak-masshtabi-peremishchennia-otsiniuiut-derzhava-ukrayina-ta-mizhnarodni-organizatsiyi-24523>

Kyiv region	341 406	85 917
Kirovohrad region	97 110	26 496
Mykolaiv region	111 896	29 693
Odesa region	211 234	56 094
Rivne region	62 081	18 098
Sumy region	79 001	20 736
Ternopil region	86 587	26 294
Kharkiv region	444 322	77 762
Kherson region	32 084	7 232
Khmelnytskyi region	150 946	45 074
Cherkasy region	162 033	45 845
Chernihiv region	78 690	20 973
Chernivtsi region	92 877	30 221
Kyiv	364 232	85 917
Sevastopol	42	12
Autonomous Republic of Crimea	24	7
In total	4 893 079	1 093 821

In addition, today, in order to obtain the certificate in addition to applying to the above-mentioned authorities, this category of persons (if technically possible) can submit an application for registration and inclusion of information about an internally displaced person in the Unified Information Database on Internally Displaced Persons; this can be done through the Unified State Web-portal of electronic services (“Diya” portal) which greatly simplifies this procedure. To submit an application, a person only needs to install the mobile application of the “Diya” Portal on an electronic device connected to the Internet, with the geolocation function enabled, and undergo electronic identification and authentication using an integrated electronic identification system, an electronic signature based on a qualified electronic signature certificate, or other means of electronic identification that enable unambiguous identification of an individual.²⁴

Also, it is worth noting that in order to implement the guarantees of internally displaced persons, the Government has introduced three lines of assistance, including namely: monetary assistance, promotion of displaced persons’ employment and introduction of compensation for the costs of paying for communal services to families who sheltered displaced persons free of charge.²⁵

²⁴ Law of Ukraine. 2014. On ensuring the rights and freedoms of internally displaced persons: law of Ukraine dated 10.20.2014 No. 1706-vii. Verkhovna rada information. URL: <https://zakon.rada.gov.ua/laws/show/1706-18#top>

²⁵ V. Horbalinskiy, O. Leshchenko, O. Mashchenko, et al ‘Ways to protect the rights of individuals in administrative proceedings: legal regulation and international experience international experience’ (2023) 41(77) *Cuestiones políticas*, 324.

Therefore, in accordance with the Procedure for providing accommodation assistance to internally displaced persons, approved by the resolution of the Cabinet of Ministers of Ukraine dated 20 March, 2022 No. 332, monetary assistance is provided monthly from the month of application before April 2022 inclusive for each internally displaced person whose information is included in the Unified Information Database on Internally Displaced Persons, in the following amounts: for persons with disabilities and children - UAH 3,000; for other persons - UAH 2000.²⁶ In order to receive assistance, an internally displaced person shall fill in an application, which is formed by means of the Unified State Web-portal of Electronic Services; in particular, this can be done using the mobile application of the “Diya” Portal.²⁷

Also families that are internally displaced persons, which include: three or more children with at least one child under the age of two; or two or more children, with at least one disabled child, can receive monetary assistance in the amount of UAH 1,220 for each family member per month, but not more than for five persons, such assistance shall be made in a single payment calculated per three months, in connection with the entry into force of the resolution of the Cabinet of Ministers of Ukraine “On the Implementation of a Joint Project with the United Nations International Children’s Emergency Fund (UNICEF) on Additional Measures of Social Support for the Most Vulnerable Categories of the Population” dated 05 April, 2022 p. No 405.²⁸

72 percent of internally displaced persons who rely on payments to displaced persons reported that the level of income per member per year is less than or equal to UAH 2,500 (\approx subsistence minimum for January 2023).²⁹

In addition to the above-mentioned financial assistance programs, internally displaced persons can receive international targeted monetary support implemented jointly with the Government of Ukraine. In particular, this support can be obtained by them from: The Mission of the International Committee of the Red Cross in Ukraine in cooperation with the Red Cross Society of Ukraine (the CMU Resolution No. 487 “On the implementation of a joint project in cooperation with the Mission of the International Committee of the Red Cross in Ukraine and the Red Cross Society of Ukraine regarding additional measures for social support of certain categories of the population”), United Nations Refugee Agency, UN World Food Program, International Organization for Migration; Norwegian Refugee Council.³⁰

²⁶ Y. Leheza, K. Pisotska, O. Dubenko, et al, ‘The essence of the principles of Ukrainian law in modern jurisprudence’ (2022) *Revista Juridica Portucalense*, 342.

²⁷ Law of Ukraine.2022. Some issues of payment of housing allowance to internally displaced persons: resolution of the cabinet of ministers of Ukraine No 03/20/2022 No. 332. URL: <https://zakon.rada.gov.ua/laws/show/332-2022-%d0%bf#n54>

²⁸ Law of Ukraine. 2022. On the implementation of a joint project with the international emergency fund for children under the United Nations (UNICEF) on additional social support measures for the most vulnerable categories of the population: resolution of the cabinet of ministers of Ukraine dated 05.04.2022 p. № 405. URL: <https://zakon.rada.gov.ua/laws/show/405-2022-%d0%bf#text>

²⁹ Report on internal displacement in Ukraine. general population survey as of January 2023,02.

³⁰ Forced migrants can receive international monetary assistance. What programs are available? 2023. Website. Kyiv regional military administration.. URL: <https://koda.gov.ua/vymusheni-pereselenci-mozhut-otrymaty-mizhnarodnu-groshovu-dopomogu-yaki-programy-dostupni/>

III ENSURING THE RIGHTS OF INTERNALLY DISPLACED PERSONS IN THE ACTIVITIES OF THE STATE AUTHORITIES OF UKRAINE

Before moving on to highlighting the powers of state authorities to ensure the rights and freedoms of internally displaced persons, it is necessary to determine which institutions the legislator has in mind, pointing out that the state takes all possible measures to protection and observance of the rights and freedoms of internally displaced persons. After all, the state implements its functions through state authorities as independent subjects, as well as local self-government bodies, which participate in the management of the state by solving issues of local importance within the limits of the Constitution and laws of Ukraine.³¹ At the same time, these entities have their own mechanism for ensuring the rights and freedoms of internally displaced persons.

For the purpose of the most complete and meaningful description of the activities of state authorities in ensuring the rights and freedoms of IDPs and taking into account different scientific approaches to their classification, we propose to divide them into three main groups, which can be conventionally called: general, special and auxiliary.³² This approach will make it possible to systematize them according to the scope and direction of powers and reduce the level of their dispersion, which negatively affects the state of ensuring the rights and freedoms of IDPs.³³ Thus, the general bodies of state power that ensure the rights and freedoms of internally displaced persons in Ukraine should include those that form policies in this area and for which ensuring the rights and freedoms of IDPs is not the main type of activity. Such bodies are: the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, the Council of National Security and Defense of Ukraine. The second group includes state authorities for which ensuring the rights and freedoms of IDPs is within their competence and is directly provided for in current legal acts, namely: Ministry of Reintegration of Occupied Territories, Ministry of Social Policy, Ministry of Health I, the Ministry of Education and Science of Ukraine, the State Migration Service of Ukraine, the State Service of Ukraine for Emergency Situations, local state authorities and their officials. The third group is formed by state authorities that exercise their powers in the interests of internally displaced persons either at the request of the latter or at the initiative of other subjects, in case of violation, limitation or restoration of

³¹ L. Nalyvaiko, *State System Guarantees: Theoretical and Legal Characteristics. The issues of improving legal knowledge in the XXI century: the unity of theory and practice*, Lviv-Toruń, Liha-Pres, 2019, 131–150.

³² Y. Leheza, V. Shablysty, I. Aristova, et al, 'Foreign Experience in Legal Regulation of Combating Crime in the Sphere of Trafficking of Narcotic Drugs, Psychotropic Substances, their Analogues and Precursors: Administrative and Criminal Aspect' (2023) 12(4) *Journal of Drug and Alcohol Research* 1.

³³ T.O. Protsenko, 'State authorities and local self-government bodies as subjects of ensuring the rights and freedoms of internally displaced persons in Ukraine' (2016) 3 *Science and law enforcement*, 33.

the rights and freedoms of internally displaced persons, namely: judicial authorities branches of government, the Human Rights Commissioner of the Verkhovna Rada of Ukraine, prosecutor's offices, the Security Service of Ukraine, central bodies of executive power and others. This division is conditional and debatable and may change depending on the transformation of state policy in the field of ensuring the rights of internally displaced persons. Taking into account the existing requirements for the volume of scientific articles, the author will consider the powers of individual state authorities in the researched direction.

Among the state authorities that ensure the rights and freedoms of internally displaced persons, a special place belongs to the Verkhovna Rada of Ukraine, which may arise with its implementation, which, in particular, is reflected in the Law of Ukraine "On Ensuring the Rights and Freedoms of Internally Displaced Persons" dated October 20, 2014.

At the President of Ukraine in accordance with Art. 93 of the Constitution of Ukraine, there is the right of legislative initiative in the Verkhovna Rada of Ukraine, and bills designated by the President of Ukraine as urgent are considered by the parliament out of turn, which also gives authority to formulate state policy in ensuring the rights of internally displaced persons. In addition, in accordance with Part 1 of Art. 3 of the Law of Ukraine "On Military-Civil Administrations", it is the President of Ukraine who, in case of need, establishes military-civilian administrations whose powers are already directly related to ensuring the rights and freedoms of internally displaced persons.³⁴ The powers of the President of Ukraine also include the issuance of decrees, orders and mandates on the issues of ensuring the rights and freedoms of IDPs with the aim of detailing and clarifying laws in this area or settling relations that have been left out of the legislation. In his activities, the President of Ukraine must respond to citizens' appeals, in particular in the field of violations of the rights and freedoms of internally displaced persons.³⁵

For objective reasons, guaranteeing the rights and freedoms of internally displaced persons is the subject of special attention of the President of Ukraine due to political and legal issues that require his primary involvement.³⁶ Thus, it activates the guarantee of the rights and freedoms of internally displaced persons by stimulating the activities of, for example, executive authorities

The Cabinet of Ministers of Ukraine as the highest body in the system of executive authorities of Ukraine in accordance with parts 3 and 9 of Art. 4, Part 2 of Art. 4-1,

³⁴ Law of Ukraine. 2015. On military-civilian administrations: Law of Ukraine dated February 3, 2015. URL:

<http://zakon.rada.gov.ua/laws/show/141-19>.

³⁵ M. Korneyev, L. Zolotukhina, T. Hryhorash, et al, 'The development of small business as a source of formation of local budget revenues in Ukraine' (2018) 15(1) *Investment, Management and Financial Innovations*, 132.

³⁶ L. Nalyvaiko, O. Chepik-Tregubenko 'Main Directions of Effective Interaction of Public Authorities and Institutes of Civil Society' *Legislation of EU countries: history, shortcomings and prospects for the development*, collective monograph. Frankfurt (Oder), Izdevniecība «Baltija Publishing, 2019, 197–214.

clause 2, part 1, parts 8 and 9 of Art. 7, Art. 10 and 17 of the Law "On Ensuring the Rights and Freedoms of Internally Displaced Persons" coordinates and controls the activities of other bodies of executive power on the subject of taking measures to ensure the rights and freedoms of internally displaced persons, directs their activities to protect their rights and freedoms, to eliminate the circumstances (conditions) that contributed to internal displacement, to facilitate return and reintegration, and also monitors internal displacement, approves and monitors the implementation of comprehensive state target programs for the support and social adaptation of internally displaced persons from the specified sources and amounts of funding, etc.³⁷

Among the special state authorities that ensure the rights and freedoms of internally displaced persons, the Law of Ukraine "On Ensuring the Rights and Freedoms of Internally Displaced Persons" directly provides for: Ministry of Reintegration of Occupied Territories, Ministry of Social Policy, Ministry of Health I, the Ministry of Education and Science of Ukraine, the State Migration Service of Ukraine, the State Emergency Service of Ukraine, local state authorities and their officials. A detailed analysis of the provisions of the above-mentioned central bodies of executive power showed that they contain a list of their tasks and functions in general terms, without specifying those that are directly aimed at ensuring the rights and freedoms of internally displaced persons, which does not contribute to the effectiveness of their protection.

Taking into account the fact that the realization of rights and freedoms by internally displaced persons takes place at the place of residence, interaction with local state authorities takes place most actively. In particular, local state administrations provide temporary residence (stay) and temporary use of housing for internally displaced persons, provision of medical (and local state administrations also provide psychological) services, acquisition of land rights by internally displaced persons, assistance with the movement of movable property of internally displaced persons, placement of children in educational institutions, provision of social protection for children of internally displaced persons and full implementation of the powers of the body of guardianship and guardianship, identification of children of internally displaced persons without parents, provision of housing for children family-type houses, etc.³⁸

According to the Law of Ukraine "On Military-Civil Administrations" dated February 3, 2015 such administrations do not aim to change and/or cancel the constitutionally enshrined right of territorial communities to local self-government, but at the same time in places, where they are formed, military-civilian administrations perform both the powers of local executive bodies and local self-government bodies (Preamble and Article 1 of this Law).

³⁷ Law of Ukraine. 2014. On ensuring the rights and freedoms of internally displaced persons: Law of Ukraine dated October 20, 2014 No. 1706-VII. URL: <http://zakon4.rada.gov.ua/laws/show/1706-18>

³⁸ K.) Krakhmalova, *Administrative and legal provision of the status of internally transferred displaced persons in Ukraine*, Law dissertation, Kyiv, 2017.

The last group of state authorities are auxiliary, but no less important in ensuring the rights and freedoms of internally displaced persons, because they can protect or restore the rights and freedoms of internally displaced persons on the part of those state bodies or their officials who were obliged to be required to provide them. Judicial authorities play an important role in restoring the violated or limited rights of internally displaced persons.

The Constitutional Court of Ukraine is a body of constitutional jurisdiction in Ukraine, which carries out constitutional proceedings, the object of which is, for example, the constitutional and legal status of a person and a citizen, including internally displaced persons. Thus, implementing the function of constitutional control, the Constitutional Court of Ukraine directly affects the guarantee of the rights and freedoms of internally displaced persons in the national legislation.

The Constitutional Court considers constitutional complaints. The result of the implementation of this function of the Constitutional Court of Ukraine is the renewal of constitutional human rights and freedoms; cancellation of unconstitutional acts of current legislation or their separate provisions.³⁹ Therefore, the mechanism of protection and restoration of human and citizen rights and freedoms in Ukraine, including internally displaced persons, has been improved and strengthened.

General courts, acting as a guarantor of the stability of social relations and thus contributing to sustainable development, play an important role, implementing the function of justice in administrative, criminal, civil and economic cases, thereby ensuring rights and freedoms internally displaced persons. The Law of Ukraine "On the Judiciary and the Status of Judges" provides that courts protect and restore, in particular, the rights and freedoms of internally displaced persons.⁴⁰ Given the fact that the practice of the European Court of Human Rights is part of national legislation, in the opinion of both scientists and human rights defenders, it should be the main model and source for Ukrainian courts, in particular in the field of ensuring the rights and freedoms of internally displaced persons.⁴¹ Documentary confirmation of legal facts is an important problem in ensuring the rights and freedoms of internally displaced persons.

At the same time, the Ukrainian judicial system has shown its high efficiency in protecting the rights and freedoms of internally displaced persons. Moreover, Ukrainian courts have shown exceptional attention to the protection of the violated rights and freedoms of internally displaced persons through proactive application of international judicial practice. Thus, the decision of the Popasnyan district court of the Luhansk region dated February 24, 2016 established the fact of the death of a person in the occupied territory. At the same time, when evaluating as evidence a medical death certificate issued by a medical institution located in the temporarily occupied

³⁹ V.I. Fedorenko, *Constitutional law of Ukraine*, Kyiv: Lira-K, 2016.

⁴⁰ Law of Ukraine. 2016. On the judicial system and the status of judges: Law of Ukraine dated 02.06.2016 Vedomosti Verkhovna Council of Ukraine. 2016. No. 31. Art. 545.

⁴¹ G. Hristova, *National case law on internal displacement: established advancing the standards of the Council of Europe* 3rd ed., revised. and added Kharkiv: Pravo, 2020.

territory, the court proceeded from the general principles formulated in the opinion of the International Court of Justice of the United Nations ("Namibian exceptions") and developed in the decisions of the ECtHR.⁴² The judges emphasize that such decisions do not mean the recognition of documents issued by the occupying power or the legitimization of this power; in this case, these documents, as an exception, are accepted and evaluated together with other evidence and form the judge's opinion on certain events and facts.

The Human Rights Commissioner of the Verkhovna Rada of Ukraine is one of the most important subjects who can ensure the realization of the rights and freedoms of internally displaced persons thanks to his broad powers. Yes, in accordance with Part 1 of Art. 11 of the Law of Ukraine "On the Commissioner of the Verkhovna Rada of Ukraine on Human Rights" The Commissioner, within the limits of the allocated funds approved by the Verkhovna Rada of Ukraine, has the right to appoint his representatives, receives information about the violation of human and citizen rights and freedoms, and has the opportunity to respond to them by two types of acts: a constitutional submission or a constitutional appeal (Articles 15 and 16).⁴³ A constitutional submission is an appeal to the Constitutional Court of Ukraine regarding the conformity with the Constitution of Ukraine of the laws of Ukraine and other legal acts of the Verkhovna Rada of Ukraine, acts of the President of Ukraine, acts of the Cabinet of Ministers of Ukraine, legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea, which concern human rights and freedoms and citizen, or about the official interpretation of the Constitution of Ukraine and the laws of Ukraine (item 3 of part 1 of article 13 of the Law). And the submission of the Commissioner is an act that is submitted to the bodies of state power and local self-government, legal entities, their officials and employees to take measures and eliminate the detected violations within a month (paragraph 3 of Article 15 of the Law). In addition, according to Clause 10 of Part 1 of Article 13 of the Law, the Commissioner, in order to protect the rights and freedoms of a person and a citizen, personally or through his representative, has the right to apply to the court (to protect the rights and freedoms of those persons who, due to physical condition, underage, advanced age, incapacity or limited legal capacity cannot defend themselves), participate in the judicial review of cases on their own claims and enter cases on the claims of other persons at any stage of the court proceedings, as well as initiate the review of court decisions. This provision is almost duplicated in paragraph 3 of part 1 of Article 60 of the Code of Administrative Judiciary of Ukraine regarding the participation in administrative cases of bodies and persons who are granted by law the right to protect the rights of freedom and interests of other persons.

⁴² «Mozer v. the Republic of Moldova and Russia». URL: <https://hudoc.echr.coe.int/eng?i=001-161055>.

⁴³ Law of Ukraine. 1997. About the Human Rights Commissioner of the Verkhovna Rada of Ukraine: Law of Ukraine dated December 23, 1997 No. 776/97-BP URL: <http://zakon3.rada.gov.ua/laws/show/776/97-%D0%B2%D1%80>

IV CONCLUSIONS

One direction of assistance to internally displaced persons consists in promotion of their employment through state compensation of costs to the employer for each employed person of this category. In the “Diya” Portal, an employer can submit an application for compensation of expenses in the amount of UAH 6,500 per month for each employed person, for whom a single contribution is made to the mandatory state social insurance, for the period of wartime and within 30 calendar days after its cancellation or termination. Employers can also submit this application in paper form - personally during a visit to the employment center or by means of filing the application to the e-mail address of the relevant employment center located at the respective location. This is a positive step, since, in our opinion, employment of this category of people should be the basis of their support, because their monetary savings and budgetary support opportunities are gradually running out, therefore it is extremely important to promote the self-sufficiency of displaced persons while restoring the economy.

It was established that the war significantly affected the sources of income of internally displaced persons. About every fourth person from the number of internally displaced persons (24%) notes that the main source of household income is monthly cash assistance for internally displaced persons. The vast majority of 72% of internally displaced persons, who rely on social assistance reported that the total household income, divided by the number of household members, is approximately UAH 2,500 (living wage as of January 2023) or less.

An extremely important role in the implementation of the rights and guarantees of forced migrants belongs to such a public initiative as “Prykhystok” (“Shelter”) (<https://prykhystok.gov.ua/>). On this website, owners of homes where they want and are able to accommodate internally displaced persons can post their own offer, and displaced persons can find their temporary housing.

In addition, home owners can receive compensation of costs for provision of temporary housings to internally displaced persons who moved during the period of martial law and do not receive monthly targeted assistance for internally displaced persons to cover living expenses, including payment of housing and communal services. For this purpose home owners need to register their housings on the “Prykhystok” website, then, no later than the next day, they should submit an application to the local self-government bodies (executive committee), indicating the name and patronymic of each of the accommodated persons and attaching copies of personal identity documents of these accommodated persons, and they should apply to the executive committee of the village, settlement, city council at the location of the residential premises in order to receive financial assistance. The amount of compensation is about UAH 450 per month (UAH 14.77 per day for each accommodated person).

It is worth noting that these programs are a positive step for the proper implementation of internally displaced persons’ rights and guarantees, however, at the

moment, they are not functioning properly. Even providing compliance with all conditions, many forced migrants still have not received their funds, their certificates have been refused and most employers do not want to hire people belonging to this category. In order to solve the abovementioned problem, in our opinion, when receiving and analyzing information about labor opportunities of displaced persons state employment centers should offer such persons to businesses and this will restore work of state enterprises and institutions, promoting employment of the latter.

Thus, we have analyzed only a small part of the problems of the legal status of internally displaced persons and we have come to the conclusion that in recent years the legislator has managed to settle a number of problematic issues.

A positive step for realizing the rights and guarantees of forced migrants consists in introduction by the Government of Ukraine of the following areas of assistance: monetary assistance, promotion of their employment, introduction of compensation for the costs of paying for communal services for families who sheltered displaced persons free of charge. Digitalization of this process, including operation of the “Diya” Portal, is of great importance for simplifying the procedure of registering persons as internally displaced ones, submitting applications for receiving financial assistance, compensation of expenses.

However, as practice shows, today there are still existing problems concerning registration of persons as internally displaced ones, as well as concerning access to habitable housing, protection of property rights, obtaining means of supporting existence, finding durable solutions and access to information and these problems need to be solved.

It is necessary to clearly distinguish the place and importance of state authorities in the issue of ensuring the rights and freedoms of internally displaced persons. Analysis of the activities of state authorities by highlighting only the powers of public administration bodies or only executive authorities, without taking into account the legislative branch of power and the judicial branch of power, will be incomplete. The proposed classification of state authorities for ensuring the rights and freedoms of internally displaced persons, taking into account different scientific approaches, into three main groups, which can be conventionally called: general, special and auxiliary. This approach will make it possible to systematize them according to the scope and directions of authority and reduce the level of their dispersion, which is one of the main problems in the implementation of the assigned tasks.

Ensuring the rights and freedoms of internally displaced persons in Ukraine is carried out by several dozen state authorities, whose activities are regulated by more than a hundred normative legal acts, which provokes the emergence of a large number of problems and inconsistencies during law enforcement. At the same time, if in 2014, 2015 or even in 2016 such problems were explained by the novelty of the conditions in which state bodies found themselves, which made it difficult to regulate social relations that arose due to the temporary occupation of the territory of Ukraine, then in 2022 such inadmissible arguments are excuses and require immediate response.

The study of the problems of ensuring the rights and freedoms of internally displaced persons in Ukraine and the results of previous studies allowed to highlight

the main ones: uncertainty of competence and lack of coherence in the activities of state authorities regarding the protection of the rights and freedoms of internally displaced persons in Ukraine; incomplete accounting of internally displaced persons and their needs; lack of a strategy for state financial provision of the needs of internally displaced persons.