

CORRELATION OF ADMINISTRATIVE DEFINITIONS OF REFUGEES AND INTERNALLY DISPLACED PERSONS: GEOPOLITICAL CONCRETION IN UKRAINE AND ITS COMPLIANCE WITH INTERNATIONAL STANDARDS

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Abstract: The purpose of this study is to investigate the correlation of administrative definitions of refugees and internally displaced persons, as well as compliance of these definitions with international standards. The methodological framework of the study included analytical, legal, and statistical methods of analysis. The study employed general scientific and special methods of cognition. The paper investigates the main provisions of the legislative framework at the international and national levels. The applied methods allowed obtaining reliable and reasonable conclusions and results. Therefore, it is necessary to legislatively regulate the situation of persons who have been in Ukraine for a long time in violation of the law. This paper presents the criteria for the correlation between the terms “refugee” and “internally displaced person”. The practical value of this study lies in the fact that the investigation of the correlation of administrative definitions of refugees and internally displaced persons and their compliance with international standards is essential for practitioners and theorists in legal science.

Keywords: Legislation of Ukraine, legal norms, legal analysis, comparative legal analysis, human rights.

Summary: 1. INTRODUCTION. 2. MATERIALS AND METHODS. 3. RESULTS AND DISCUSSION. 4. CONCLUSIONS.

1. INTRODUCTION

One of the terms used regarding persons who have left their place of permanent residence due to negative circumstances is “internally displaced person”. In international and national foreign law, this term is not frequently used, and these categories of persons

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are defined by such concepts as “internally displaced persons”, “internal refugees”, etc. (Handbook for the Protection..., 2006). Thus, the term “internally displaced persons” (IDPs) is widely used in the practice of the Office of the United Nations High Commissioner for Refugees (UNHCR). The main difference between IDPs and refugees is that such the former do not cross the state border and remain on the territory of the corresponding state. Consequently, the differences are manifested in purely technical and legal aspects and are practically unrelated to the reasons that force people to leave their homes; moreover, sometimes these reasons can be quite the same (Handbook for the Protection..., 2006). The concept of forced migration appeared as a way of protection, additional to the status of refugees, which, on the one hand, would not be limited by the criteria for defining refugees. On the other hand, it could be applied to persons who may be granted asylum by the state itself in a part of its territory, and therefore the person does not have to leave it. At one time, UNHCR was authorised by UN resolutions to provide assistance to IDPs in particular cases as well. The UNHCR’s mandate currently covers those individuals, as internal displacement is considered a perfectly acceptable alternative to international protection or asylum (UNHCR’s mandate for refugees..., 2021). The UN General Assembly has directed it to respond to situations of internal displacement. This has been brought into the work of the Inter-Agency Standing Committee and, through the cluster approach, UNHCR is the lead agency for IDP protection. International standards on refugee status are based on the following fundamental principles (Adeola & Orchard, 2020, p. 415):

- inalienability of fundamental rights and freedoms;
- the right to citizenship and the right not to be arbitrarily deprived of citizenship or the right to change citizenship;
- prohibition of the use of armed force to restrict the exercise of human rights by individuals or groups of persons or to deprive them of their national, religious, cultural, linguistic or ethnic identity;
- bans on measures such as forced displacement;
- the right to apply for and use asylum in other countries;
- the right to leave any country, including one's own, and the right to return to any country;
- non-expulsion of refugees.

An internally displaced person is a person who is forced to move from a place of permanent residence inside their country as a result of armed conflict, internal disorder, systematic violation of human rights, including as a result of natural disasters (Rymarenko, 1998). It reflects the main specifics of this category of persons, namely that they remain on the territory of their state. At the universal and regional international levels, IDPs are defined almost identically as a person or group of persons who have been forced or obliged to leave or abandon their homes or places of habitual residence, in particular as a result of or to avoid the consequences of armed conflict, violence, human rights violations, natural or man-made (anthropogenic) disasters, and who have not crossed internationally recognised state borders (Cantor, 2018, p. 192). A certain specification of the definition regarding its individual aspects, for example, the characteristics of state borders as internationally defined, does not change the essence of the definition itself.

The grounds for internal displacement are also much less specific in this definition than the grounds for abandonment of the country of origin by refugees, and cover a much wider circle of people (Special Rapporteur on the Human..., 2021).

If people displaced from their homes do not have the means or desire to cross the border, they will not be considered refugees, even if they and the refugees share many similar circumstances and problems (Ley General de Víctimas..., 2012; Ley número 487..., 2014). Most IDPs are citizens of the country where they continue to reside, and therefore the category of these persons has the same rights as other citizens of this country. At the same time, these individuals and their situation at the international level report their basic and often rather serious needs for specialised protection. The country of resettlement has primary responsibility for the protection of refugees.

The most important criterion for distinguishing between refugees and internally displaced persons is their place of residence and the countries that should provide them with protection. Refugees are outside their country of citizenship or past permanent residence, while internally displaced persons are inside. Thus, their protection is based on the territorial sovereignty of different states. The legal status of refugees is governed mainly by the rules of public international law, while the legal status of internally displaced persons is largely governed by the rules of national, mostly administrative, law. Refugee migration is always forced. At the same time, internally displaced persons can be both forced (if they are forced to do so by negative circumstances inside the country) and forced migrants (if internal displacement is carried out using force of state).

The purpose of this study is to investigate the correlation of administrative definitions of refugees and internally displaced persons, as well as compliance of these definitions with international standards. To achieve this goal, the following research objectives are formulated:

- to characterize the formation and development of the concept of “refugee” and “internally displaced person” in legal science and its evolution in the legislation of Ukraine;
- to define the concept, features and content of the legal status of internally displaced persons as a subject of administrative and legal support;
- to find out the ratio of general and special legal statuses of refugees;
- to find out the problems of administrative and legal support of the status of internally displaced persons and to suggest possible ways of their organizational and legal solution.

2. MATERIALS AND METHODS

The methodological framework of the study included analytical, legal, and statistical methods of analysis. The study employed general scientific and special methods of cognition. One of the main analytical methods used was the analytical method, which allowed assessing the reciprocity between administrative definitions of refugees and

internal order. The comparative method was used to analyse the reciprocity between administrative definitions of refugees and internal exchanges. The descriptive method allowed presenting the results of the study in a logical sequence. A descriptive method is a type of scientific method that constitutes a system of procedures for collecting, primary analysing, and presenting data and its characteristics. The descriptive method is used in all disciplines of the social, humanitarian, and scientific cycle.

The use of the evaluation method allowed concluding on the effectiveness of available interim measures by the competent authorities. The synthesis method allowed solving research problems by applying them to primary sources in this field. Methods of induction and deduction were used to analyse the content and structure of legislative texts, features of legal provisions in the context of the subject matter. The structural-functional analysis enabled the consideration of the structural constitution features of modern institutions and organisations, their mutual interaction with other institutions whose activities somehow affect these issues. The historical method was used to analyse the reciprocity between administrative definitions of refugees and IDPs, as well as responsibility.

3. RESULTS AND DISCUSSION

Internationally, the criteria for determining and minimum standards for the protection of IDPs are established in the UN Guiding Principles on Internal Displacement (Recommendation Rec Committee..., 2006). Another document regulating certain aspects of the protection of IDPs is the Pinheiro Principles on Housing and Property Restitution for Refugees and Displaced Persons (“Pinheiro Principles”) (Paraskeva, 2017). Considering the compulsion and consequences of such displacement for both categories of refugees and IDPs, the Pinheiro Principles apply to both categories. A detailed analysis of the content of these principles and the legislation of Ukraine for compliance with their requirements will be addressed separately. However, even at first glance, their name suggests that these documents are not international legal acts, and therefore are not mandatory, but advisory in nature. However, the principles are based on international agreements in the field of human rights and international law, and therefore are considered by the United Nations to be “an important international framework for the protection of internally displaced persons” (Resolution 60/1..., 2005). A confirmation of the importance and binding nature of the Principles as a regulatory source of standards for IDPs is that they are used by international courts, such as the European Court of Human Rights, to justify their decisions.

The Council of Europe also recommends the use of this definition and calls on member states to adhere to the principles and implement them in national legislation (PACE, 2003). In particular, the Parliamentary Assembly of the Council of Europe recognised that the guidelines “constitute a standard for governments and other responsible authorities and intergovernmental organisations, and are an essential tool in their work with displaced persons”. It has also developed a regional framework of human rights standards. The key document of the European system for the protection of human rights is the Convention for the Protection of Human Rights and Fundamental Freedoms (European Charter..., 2006). Therewith, emphasising the high effectiveness of this Convention, the Council of

Europe notes that the obligations assumed by the member states of the Council of Europe are much broader or “go beyond” the obligations established by the Guiding Principles (Draft Recommendation..., 2006). Certain European standards for the protection of IDPs are established by the European Social Charter (revised) (Resolution of the Verkhovna Rada..., 2007), the Framework Convention for the Protection of the Rights of National Minorities (Framework Convention for..., 1995), the European Charter for regional or minority languages (Convention for the Protection..., 2006), Recommendation 2367 “On the protection of victims of arbitrary displacement” (2021), etc.

The events in Crimea, which led to its annexation in March 2014 and the armed conflict that began in eastern Ukraine in April 2014, led to a massive displacement of the civilian population both inside and outside the country. As of July 2020, according to the Ministry of Social Policy of Ukraine, 1.449,415 IDPs were registered in Ukraine. As of June 2016, 1.785,740 IDPs were officially registered in Ukraine. Furthermore, in the first half of 2016, according to official documents, there were more than a million Ukrainians in other countries who applied for refugee status or otherwise tried to settle their stay in border states. Most of them are located in the Russian Federation (1.092,212) and Belarus (130.056) (Bolin et al., 2016, p. 8).

Notably, the Verkhovna Rada of Ukraine responded quite quickly to the challenges that arose as a result of the above events. In October 2014, the Law of Ukraine No. 1706-VII “On Ensuring the Rights and Freedoms of Internally Displaced Persons” was adopted. However, Ukraine had no experience in protecting the rights of IDPs. Evidently, the provisions of this Law turned out to be imperfect, which required bringing it in line with international standards (Beyani, 2015). As a result, numerous changes were introduced into the Law No. 1706-VII, including improvements in the definition of an internally displaced person. Thus, the primary definition of an IDP as a citizen of Ukraine permanently residing in Ukraine, who was forced or who independently left their place of residence as a result of or to avoid the negative consequences of armed conflict, temporary occupation, widespread manifestations of violence, mass violations of human rights and emergencies of a natural or anthropogenic nature has been expanded (Part 1, Paragraph 1, Article 1 of the Law of Ukraine “On Ensuring the Rights and Freedoms of Internally Displaced Persons”) (Law of Ukraine No. 1706-VII..., 2015). Considering the latest amendments to the Law, an IDP is considered to be “a citizen of Ukraine, a foreigner or a stateless person who is legally located on the territory of Ukraine and has the right to permanent residence in Ukraine, who was forced to leave or abandon their place of residence as a result of or to avoid the negative consequences of armed conflict, temporary occupation, widespread manifestations of violence, human rights violations, and emergencies of a natural or anthropogenic nature” (Part 1, Paragraph 1, Article 1 of the Law of Ukraine “On Ensuring the Rights and Freedoms of Internally Displaced Persons”).

In compliance with the legislative requirements, the Cabinet of Ministers of Ukraine approved an Action Plan for the implementation of the National Human Rights Strategy, which was approved by the Cabinet of Ministers of Ukraine on November 23, 2015, in paragraph 122 of which the government instructed “to develop and approve methodological recommendations for conducting an expert examination of draft

regulations affecting the rights of IDPs in terms of compliance with the UN Guiding Principles on Internal Displacement, to ensure, as established in the expected result of the National Strategy, that “international legal mechanisms are used to protect the rights and freedoms of internally displaced persons” (Law of Ukraine No. 501/2015..., 2015). This wording further emphasises the importance and role of the Guiding Principles for the settlement of legal relations involving IDPs to ensure the enjoyment of their rights and freedoms. Figure 1 demonstrates the criteria for the correlation between the terms “refugee” and “internally displaced person”



Figure 1. Criteria for correlation between the terms “refugee” and “internally displaced person”

Therewith, in general, the wording of the definition of IDPs in the Law of Ukraine “On Ensuring the Rights and Freedoms of Internally Displaced Persons” (2015) generally corresponds to international standards in this area with certain reservations. Therefore, it is considered appropriate to compare these definitions and formulate particular proposals for improving the definition of IDPs in the legislation of Ukraine.

Both IDPs and refugees are forced migrants or displaced persons, so the grounds for recognising a person as a refugee and IDPs, in particular the reasons for displacement, may coincide. Basically, these are certain negative events and situations related to threats to life, freedom, and other fundamental rights of the individual. They are most broadly described in IDPs as the negative consequences of armed conflict, temporary occupation, widespread violence, human rights violations, and natural or anthropogenic emergencies. On the other hand, the grounds for persecution of refugees, both universally and legislatively, are defined in a rather limited fashion, which forced the world community to search for additional tools for the protection of persons, as already mentioned.

Analysis of the list of reasons for displacement, defined in Part 1, Paragraph 1, Article 1 of the Law of Ukraine No. 1706-VII “On Ensuring the Rights and Freedoms of Internally Displaced Persons”, suggests that it partially complies with universal standards. At first glance, it even appears broader than the list of reasons defined in the guidelines on internal displacement. After all, among the reasons for displacement, the Ukrainian law separately defines temporary occupation, which in recent years has been considered one of the main reasons for internal displacement in Ukraine.

Therewith, it is necessary to note some inconsistencies of Law No. 1706-VII with international standards in the context of the reasons for displacement, which narrow the circle of IDPs in Ukraine, and therefore should be eliminated. Firstly, the list of reasons for displacement as defined in the Guiding Principles is not exhaustive, which is conditioned upon the use of the word “in particular” before the list itself. Part 1, Paragraph 1, Article 1 of the Law No. 1706-VII lacks this essential nuance, considerably narrowing the list of reasons for displacement in national legislation compared to universal legislation. Furthermore, this shortcoming massively reduces the universality of the current Law and the possibility of its prompt application to situations of internal displacement that may arise in the future, and which are currently not taken into account by the law.

Secondly, in contrast to the Guiding Principles, under Paragraph 2, Article 1 of the Law No. 1706-VII, the circumstances that caused the displacement are considered to be in public domain and do not require proof if information about them is contained in the official reports (communications) of the United Nations High Commissioner for Human Rights, the Organisation for Security and Co-operation in Europe, the International Committee of the Red Cross and Red Crescent, the Commissioner for Human Rights of the Verkhovna Rada of Ukraine, is posted on the websites of the specified organisations, or if relevant decisions have been taken by the authorised state bodies in respect of such circumstances. There is no doubt that such an amendment to the definition of IDPs in Ukrainian legislation creates additional restrictions in comparison with universal standards for the protection of IDPs, and therefore should be excluded. In addition, the list of subjects of official reports on relevant events, namely the United Nations High Commissioner for Human Rights, the Organisation for Security and Co-operation in Europe, the International Committee of the Red Cross and Red Crescent, the Commissioner for Human Rights of the Verkhovna Rada of Ukraine is formulated as cumulative. This means that the absence of relevant information on the website of one of these entities is sufficient, if the authorised state bodies have not made appropriate decisions regarding such circumstances, to force the person to prove the validity of the circumstances that forced them to migrate internally. There is no doubt that such a specification of universal standards is inappropriate, insufficiently justified, and therefore such norm should be excluded from the current legislation of Ukraine.

Manifestations of violence as causes of internal displacement both in the legislation of Ukraine and in international documents are described by such a feature as “ubiquity”. The term “ubiquitous” (“ubiquity”) is not defined by the legislation of Ukraine. Explanatory dictionaries of the Ukrainian language define “ubiquitous” as such that is, happens, occurs, happens, etc. everywhere. Evidently, this term lacks certainty and specificity, at least regarding the territory that sees manifestations of violence everywhere, the number of such manifestations, their objects, etc. This creates additional opportunities for the subject of power to interpret it at its own discretion.

Returning to the distinction between the definitions of IDPs and refugees, they also have different definitions of the subjective element of the grounds for displacement, or the subjective component – awareness of the need to make a decision to leave their permanent place of residence and seek asylum or protection. In general, the introduction of such a subjective element as fear of persecution in the definition of refugees is conditioned by

the need to provide people with the opportunity to use protection proactively, without expecting the persecution itself on the appropriate grounds. Consequently, in the definition of refugees, the subjective side of the decision to seek asylum is formulated through its psycho-emotional element – the motive – the fear of persecution on certain particular grounds. At the same time, the definition of IDPs does not cover such a subjective factor as fear. Instead, a more conventional construction is used to describe the subjective side of the act, namely the purpose (“to avoid negative consequences...”), which is mainly related to consciousness, planning, calculation for the corresponding result.

Therewith, legal science conventionally uses the terms “purpose (goal)” and “motive” mainly to describe illegal acts as the purpose (goal) and motive of an offence – an optional feature of the subjective side of an administrative offence, for example. The motive and purpose of an administrative offence constitute independent signs of the subjective side of its composition, they are two aspects of a person's mental behaviour. The motive of an administrative offence is internal motives determined by needs and interests, realised by a person, which cause them to decide to commit an offence and control the actions of the offender upon committing it (Gerasimenko, 2000). Motive – the incentive for a person's behaviour and actions, which arises under the influence of their needs and interests; the direct internal incentive reason for criminal acts.

The purpose has conventionally been interpreted as “what the offender desires, what they want to achieve by committing an offence. In other words, the purpose is a reflection of the direct result in the human psyche that should occur as a result of this person's act” (Gerasimenko, 2000). However, recently the purpose (goal) has been defined in administrative law in the context of strategic planning and other aspects of public administration as “a perfectly predictable result of activity in a certain area (the logical result of setting a goal)” (National Mediation..., 2021). For example, “the purpose of the position (title) is the predicted result of performing tasks in the civil service position, determined by the decision of the head of the state body”. A strategic purpose is defined as “the desired impact of national policy in the field of human rights in the strategic vectors envisaged in the National Strategy”. Motives still remain a category that is legislatively defined for negative acts. And only in exceptional cases it is used to justify certain decisions of subjects of power, such as, for example, “forced alienation of objects of ownership can be applied only as an exception for reasons of public necessity based on and according to the procedure established by law, and subject to preliminary and full reimbursement of their value...” pursuant to Article 321 of the Civil Code of Ukraine (2004). Clearly, at first glance, the type of displacement is the criterion that most expressly distinguishes these categories. Like refugees, IDPs are forced migrants, with the difference that refugees migrate across borders between states, while IDPs migrate within the country. However, in some cases, such as in the former Yugoslavia, borders change regularly during the conflict. This led to the fact that IDPs did not initially cross internationally recognised state borders, but later ended up abroad, for example, “they became internally displaced persons from Kosovo living in Montenegro” (European Social Charter, 2019). There are other cases of difficulty in distinguishing between refugees and IDPs based on the nature of displacement. For example, the situation in Georgia (Abkhazia and North Ossetia) and Ukraine (Autonomous Republic of Crimea), where the status and state borders of the

territory became the subject of dispute. And the recognition of borders raises the question of the correct distinction between refugees and IDPs. In such cases, a pragmatic but principled approach should be applied. For example, as the Venice Commission points out, in Georgia, persons displaced as a result of conflicts in the self-proclaimed autonomous region of South Ossetia (as well as for Abkhazia) who remained on the territory of Georgia were classified as victims of the conflict in the former region of South Ossetia, and their status was changed from “refugees and internally displaced persons” to “forced migrants” (Draft opinion No. 364/2005..., 2005).

Therewith, the authors of this study are forced to address the existence of certain discrepancies between the legislative and universal definitions of IDPs regarding the nature of displacement.

Firstly, the legislative definition does not require that the migration of IDPs should take place within the “internationally recognised” state borders. However, according to the Guiding Principles on Internal Displacement, “... internally displaced persons are persons or groups of persons who have been forced to leave their homes or habitual places of residence ... and who have not crossed internationally recognised state borders”. Notably, currently there are territories within the internationally recognised state borders of Ukraine that are not recognised by all foreign states as the territory of the state of Ukraine. In particular, this refers to the territory of the Autonomous Republic of Crimea. Considering the above, the authors of the present study believe that it is necessary to supplement the legislative definition of IDPs with the appropriate wording.

Secondly, the universal definition does not contain any restrictions on the place of residence of IDPs at the time of occurrence of circumstances that forced the person to migrate. Similarly to the so-called sur place refugees, the universal definition of IDPs also applies to persons who were temporarily absent from their place of permanent residence at the time when the situation of internal displacement occurred. The explanation to the Guiding Principles states that the concept of migration within state borders should be interpreted in a “broad sense”. In particular, this requirement is to be met even in the case of IDP transit through the territory of a neighbouring state for the purpose of protection in a safe part of their home country, as well as in the case of voluntary or forced return of a person to their home country from abroad, if the person is unable to return to their habitual place of residence due to the occurrence of the reasons specified in the definition; or voluntarily went to another part of their state and cannot return home because the events that occurred in their absence make such return impossible or unjustified (Kalin, 2002, p. 4). Therefore, for example, students and persons who temporarily resided in another place, and who, due to certain circumstances in the Crimea and in certain regions of Donetsk and Luhanska Oblasts, are unable to return to their place of permanent residence, should be considered as IDPs. The definition of IDPs formulated in Part 1, Article 1 of the Law of Ukraine “On Ensuring the Rights and Freedoms of Internally Displaced Persons” does not explicitly exclude such persons. However, other provisions of the Law, such as the indication that the address of an IDP's abandoned place of residence within the meaning of the Law No. 1706-VII is recognised as the address of a person's place of residence at the time of occurrence of the circumstances specified in Part 1, Article 1 of this Law,

limit the ability to provide protection to such persons as IDPs. After all, if a person has a permanent place of residence on the territory of the Autonomous Republic of Crimea, temporarily resided in the city of Kyiv at the time of the circumstances specified by Law No. 1706-VII (2015) that render the return to home impossible, their place of residence at the time of such circumstances is considered Kyiv and such a person does not have the right to be recognised as an IDP. The only exception to this restriction is established by Part 5, Article 4 for students who received a certain educational qualification level and had registration of their place of residence in dormitories. After de-registration, they have the right to receive a certificate of registration of an IDP if they do not want to return to their previous place of residence due to circumstances determined by the Law.

At the same time, persons transferred subsequently to the relevant circumstances in the absence of an identity document and citizenship of Ukraine, or in an identity document confirming its special status, license plates in an administrative-territorial unit must prove that they are located in the administrative territory from which the internal transfer takes place, on the day of the circumstances that led to the internal transfer, for example, a military ID card, a work record, confirmation of ownership of movable property, immovable property, a certificate of primary secondary education, a certificate of higher secondary education, a certificate of professional and technical education, a certificate of higher education (scientific degree), certificate of education, decision of the district, municipal district in the city of Kyiv or the State Administration of Sevastopol, the executive body of the city or municipal district council on the placement of a child in a children's institution, foster family, family-type orphanage, guardianship (medical documents, photos, videos, etc.) (Part 7, Article 4 of the Law No. 1706-VII), which directly contradicts international universal standards for the protection of IDPs. Therewith, this requirement of the Law No. 1706-VII directly contradicts the norm of Part 1, Article 2 of the Law of Ukraine "On Freedom of Movement and Free Choice of Place of Residence in Ukraine", according to which registration of the place of residence or stay of a person or its absence cannot be a condition for the enjoyment of the rights and freedoms provided for by the Constitution, laws or international treaties of Ukraine, or serve as the basis for their restriction (Law of Ukraine No. 1382-IV..., 2019).

In addition, the universal definition has an essential element in determining the place of previous residence of IDPs, or which IDPs leave, namely "... who were forced to leave their homes or habitual places of residence ...". In other words, the universal definition does not use refugee-specific categories of "previous permanent residence". By universal definition, it is sufficient for a person to leave their home, even if it was not located in the person's permanent place of residence, to be recognised as an IDP and receive appropriate protection. Moreover, there is no need to prove the previous registered place of residence. The authors of this study believe that in this part, the definition of IDPs in the Law of Ukraine No. 1706-VII requires harmonisation with universal standards.

The issue of the list of refugees and IDPs, at first glance, is simple and does not require additional research. If refugees are non-citizens of the relevant state (foreign citizens and nationals, or stateless persons), then IDPs, on the contrary, are primarily citizens of the relevant state. Therewith, according to the definition in the Law No. 1706-VII, a

refugee, since they are a foreigner or a stateless person, can also become an IDP under the appropriate circumstances. As can be seen, the circle of both groups of people requiring appropriate protection, refugees and IDPs, may coincide. The authors of this study consider it appropriate to focus on certain points of discussion. Notably, as in many other cases, the legislative definition of IDPs narrows the definition set out in the Guiding Principles on Internal Displacement in terms of the circle of persons. After all, per the legislative definition, an IDP is “a citizen of Ukraine, a foreigner, or a stateless person who is legally located on the territory of Ukraine and has the right to permanent residence in Ukraine”. The universal definition of IDPs does not contain any such reservation. According to the latter, any person can be an IDP in the event of the relevant circumstances specified in the definition, provided that they are in the country not just in transit, but more or less permanently, that is, they, as indicated in the definition, will be “forced to leave their homes or habitual places of residence”. Thus, it is quite reasonable for IDPs to include the following categories of persons: citizens of the country concerned; displaced stateless persons who have had a habitual residence in a certain state; citizens of another country who have lived in the specified country for a certain time, perhaps even for generations, and have generally lost contact with the country of which they are citizens; citizens of another country who have permanent residence in the specified country, because they were allowed to enter the territory for permanent or long-term stay; refugees who have returned to their country of origin, but are unable to return to their homes or cannot find another long-term solution due to social or economic integration in another part (Protection of the rights..., 2018).

Notably, the legislation of Ukraine in this part has undergone certain positive changes. Thus, according to the first version of the Law of Ukraine “On Ensuring the Rights and Freedoms of Internally Displaced Persons”, only “a citizen of Ukraine permanently residing in Ukraine” could be recognised as an IDP. Thus, the Law excluded from the definition of IDPs stateless persons and other non-citizens of Ukraine, who, however, are included in the IDPs according to the universal definition. Subsequently, on February 18, 2015, Draft Law No. 2166 “On Amendments to Certain Laws of Ukraine on Strengthening Guarantees of Respect for the Rights and Freedoms of Internally Displaced Persons” was submitted to the Parliament of Ukraine. On November 3, 2015, the Verkhovna Rada of Ukraine voted for this draft law, which, after considering the comments of the President of Ukraine, was signed last on January 6, 2016. The adopted amendments expanded the circle of persons to whom the Law extended its effect to include foreigners residing on the territory of Ukraine, including certain categories of stateless persons. Subsequently, despite the relevant criticism and recommendations of international organisations, no changes or amendments have been introduced to the definition of IDPs as amended by Law No. 921-VIII of December 24, 2015 (Law of Ukraine No. 921-VIII..., 2015).

However, even considering the positive dynamics of improving the legislative definition of IDPs, the current Law still excludes from the definition of IDPs the stateless persons who cannot prove the fact of legally residing on the territory of Ukraine and have the right to permanent residence in Ukraine. In other words, the definition of IDP covers only “documented” stateless persons. Stateless IDPs without valid documents are excluded from the scope of the Law. Such persons, for example, include those who currently have invalid USSR passports.

Notably, since 2013, Ukraine has been a party to the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. However, Ukrainian legislation remains inconsistent with those instruments. In particular, this concerns the unsettled procedure for determining the status of stateless persons, which would allow undocumented stateless persons to obtain documents on the legality of their stay on the territory of Ukraine and the right to permanent residence in Ukraine (Budivska and Orlova, 2017, p. 139). Therefore, “the problem of statelessness of persons with an unregulated status on the territory of Ukraine”, namely citizens of the former Soviet Union (both refugees from the former republics of the USSR and those born in the territories of these former republics) remains urgent, many of whom do not have any documents other than passports of the former USSR, do not have citizenship of any state and are actually deprived of the opportunity to obtain citizenship of Ukraine. This leads to a violation of their rights, in particular social and economic ones (Order of Cabinet of Ministers..., 2017).

4. CONCLUSIONS

The presented paper investigated the main provisions of the legislative framework at the international and national levels. The applied methods allowed obtaining reliable and reasonable conclusions and results. Hence the necessity of legislatively regulating the status of persons who have been on the territory of Ukraine for a long time in violation of the legislation. The specified non-conformity of the legislation of Ukraine should be eliminated in two parallel ways. Effective access to justice is also an essential tool for compensating for all damage caused to IDPs, including displacement. It is also a means of bringing to justice those responsible for international crimes. Access to justice may include issues such as legal aid, judicial fees, alternative dispute resolution, and even the adequacy of the compensation reimbursed by the court. Considerable socio-economic inequalities need to be factored in to ensure effective access to justice for people with or without limited resources, and IDPs require the necessary structural and educational support to take advantage of the remedies available.

Thus, this study has achieved its purpose, namely the investigation on correlation of administrative definitions of refugees and internally displaced persons and compliance of these definitions with international standards.

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