

# International Standards of Social Protection of Internally Displaced Persons: Administrative and Criminal Aspects\*

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## Abstract.

This article reveals the problem of social security of internally displaced persons. The scope of social protection directed at this category of the population is not the same in different countries. Taking into account the origin of the authors of the article, the questions of social protection of internally displaced persons in Ukraine are described in detail. *Conclusions.* Special attention was paid to the need to provide people with the opportunity to exercise their rights and freedoms as well as the proper conditions for social rehabilitation, that has arisen before the state. As a result of the research – ways how to strengthen social security, increase the level of social protection and make it more effective are proposed. The European standards of social protection of internally displaced persons are a set of norms fixed in the acts of the Council of Europe, the European Union, decisions of the European Court of Human Rights, which, as a result of their implementation in the internal law of the states become mandatory for implementation and determine the decent living conditions of internally displaced persons, the responsibilities of the state in this area for ensuring security and full decent development of personality. In the system of European standards for social protection of internally displaced persons, the relevant norms developed by various institutions of the Council of Europe are extremely important.

**Keywords:** Social Protection; Social Security; Internally Displaced Persons; Displacement

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## Standar Internasional Perlindungan Sosial Bagi Pengungsi Internal: Aspek Administratif dan Criminal

### Abstrak.

Artikel ini mengungkapkan masalah jaminan sosial orang-orang yang tidak senang secara internal. Cakupan perlindungan sosial yang ditujukan pada kategori penduduk ini tidak sama di berbagai negara. Mempertimbangkan asal usul penulis artikel, pertanyaan tentang perlindungan sosial bagi para pengungsi internal di Ukraina dijelaskan secara rinci. Kesimpulan. Perhatian khusus diberikan pada kebutuhan untuk memberikan orang kesempatan untuk menggunakan hak dan kebebasan mereka serta kondisi yang tepat untuk rehabilitasi sosial, yang telah muncul sebelum negara. Sebagai hasil penelitian diusulkan cara bagaimana memperkuat jaminan sosial, meningkatkan tingkat perlindungan sosial dan membuatnya lebih efektif. Standar Eropa tentang perlindungan sosial bagi pengungsi internal adalah seperangkat norma yang ditetapkan dalam tindakan Dewan Eropa, Uni Eropa, keputusan Pengadilan Hak Asasi Manusia Eropa, yang, sebagai hasil dari implementasinya dalam hukum internal, negara menjadi wajib untuk implementasi dan menentukan kondisi kehidupan yang layak dari orang-orang yang dipindahkan secara internal, tanggung jawab negara di bidang ini untuk memastikan keamanan dan pengembangan kepribadian yang layak sepenuhnya. Dalam sistem standar Eropa untuk perlindungan sosial bagi pengungsi internal, norma-norma relevan yang dikembangkan oleh berbagai lembaga Dewan Eropa sangat penting.

**Kata Kunci:** Perlindungan Sosial; Jaminan Sosial; Pengungsi Internal; Pengungsian.

### Международные стандарты социальной защиты внутренне перемещенных лиц: административные и уголовные аспекты

#### Аннотация.

В статье раскрывается проблема социальной защищенности внутренне недовольных. Объем социальной защиты, направленной на эту категорию населения, в разных странах неодинаков. С учетом происхождения авторов статьи подробно освещены вопросы социальной защиты внутренне перемещенных лиц в Украине. Выводы. Особое внимание было уделено необходимости предоставить людям возможность реализовать свои права и свободы, а также создать соответствующие условия для социальной реабилитации, которые возникли перед государством. В результате исследования - предложены способы, как усилить социальную защищенность, повысить уровень социальной защиты и сделать ее более эффективной. Европейские стандарты социальной защиты внутренне перемещенных лиц - это совокупность норм, закрепленных в актах Совета Европы, Европейского Союза, решениях Европейского суда по правам человека, которые в результате их имплементации во внутреннее право государств становятся обязательными для реализации и определяют достойные условия жизни вынужденных переселенцев, обязанности государства в этой сфере по обеспечению безопасности и полноценного достойного развития личности. В системе европейских стандартов социальной защиты внутренне перемещенных лиц чрезвычайно важны соответствующие нормы, разработанные различными учреждениями Совета Европы.

**Ключевые Слова:** Социальная Защита; Социальное Обеспечение; Внутренне Перемещенные Лица; Перемещение

## A. INTRODUCTION

The current socio-economic and political situation in the world affects both the social security law in general and its individual institutions. A human is recognized as the highest social value by the provisions of the legislation of most states of the world, while the state reserves the duty to affirm and secure its rights and freedoms, to create the appropriate conditions for the realization of human as an individual.

The implementation of these norms for internally displaced persons who have, due to objective circumstances, forcedly left their place of permanent residence has particular importance. The official statistics of asylum seekers are disappointing. The United Nations High Commissioner for Refugees (UNHCR) has introduced data on international refugees and asylum seekers, that shows the growing trend of global refugee population. So, it started from only a little bit more than 2 million people in 1975 to near 15 million in the end of XX century, but soon, it felt by 3 million in the early 2000 (UNHCR, 1995; UNHCR 2000, Castles and Loughna, 2003). The list of countries that were native for refugees in the past the mostly represented by: Afghanistan, Iraq and Burundi. The number of refugees in these regions differs from the highest – 2.6 million in Afghanistan to slightly more than half of million in two others. The list of them is supplemented by Sudan, Somalia, Bosnia, Angola, Eritrea and Croatia, where the average number of internally displaced people varies from 300 to 400 thousands (Akee et al., 2010).

The role of displacement statistics is high. It provides the foundation for sound policies, programs and decisions. The exact number of such people leads to more effective measurement and evaluation for decision makers. Moreover, it effects increased accountability, helps advocacy become stronger because basing on evidence (Saetre, 2017).

Nowadays the problem of forced displacement of people remains the most acute in the 21st century. This is associated with frequent violations of the rights of individual as a person and a citizen. Displacement leads to the breakdown of social structures and informal and formal insurance mechanisms along with a disruption of employment, healthcare, education and financial services making internally displaced persons a vulnerable group, which requires some investment in infrastructure development (Koval et al., 2017; Koval et al., 2019a). The food insecurity, hunger and unequal distribution of material goods are reflected on them very strongly (Akee et al., 2010). In addition, the territory of temporary residence of internally displaced persons is characterized by an increase in the anthropological pressure on these territories

of their pollution, and in the future is not capable of agricultural use and requires an increase in the corporate social responsibility of the state, enterprises and society (Koval et al., 2019b; Popova et al., 2019), which significantly reduces the tourist attractiveness of the territories and the need for its recreation (Kostetska, 2018; Kostetska et al., 2018).

The effective implementation of the right to social protection by forced migrants has great significance; first of all, due to the unfavorable consequences of internal displacement, the nature of which is influenced by its causes. It is aimed at satisfying the interest in obtaining a set of material goods and / or non-material measures for overcoming or mitigating the adverse effects of internal displacement, the provision of an adequate standard of living through the fulfillment of obligations by socially obligated subjects of all forms of ownership and organizational-legal forms.

Neither the international nor the national level formed a single concept that would determine the legal status of subjects whose standards of social protection will be investigated within the framework of this article. Moreover, several synonymous are used in literature and everyday life for calling such subjects: «internal migrant», «internal refugee», «forced migrant», «settler» etc. This situation is caused by the fact that the phenomenon of «internal displacement» began to be widely investigated only in the last decade of the twentieth century.

The international community played a chief role in shaping of the legal status of internally displaced persons. In addition, the recognition of internal displacement as the problem that goes beyond state sovereignty in connection with the new and fully apparent challenges of our time (ecology, terrorism, nuclear weapons, migration, globalization), the degree of its unfavorable influence on each individual, political and economic stability in the state, and for the international community as a whole, have also effected the growth of scientific investigations and development of legislation (Koval et al., 2019). So, in 1992, when the United Nations Commission for Human Rights first addressed this issue, it was calculated that the number of internally displaced people in the world had exceeded 24 million people (Kälin, 1995).

## **B. METHODS**

The methodological basis of the work is the materialistic dialectics supported by the use of general scientific methods. Operating with a logical method made it possible to derive definitions of concepts. Methods of analysis,

synthesis, comparison, modelling were actively used systemic and functional approaches. Were also used private scientific methods (sociological, statistical, formal legal, etc.).

## **C. RESULTS AND DISCUSSION**

### **1. Review of literature and define the essence of internally displaced persons**

The article focuses on the study of the problems of strengthening the role of the state in providing social support to internally displaced persons in the areas of their settlement and taking a number of administrative measures to solve the problems of ensuring their social security.

Thus, Basova (2019) investigated the legal status of internally displaced person as a subject of social security law in Ukraine. The author proposed an own definition of this category of people, proposed the concept and types of social protection of internally displaced person, and investigated the system of international protection of internally displaced persons. The scientist made conclusions about the feasibility of introducing positive legislative experience of certain foreign countries in the investigated sphere.

Korostiy (2016) analyzed the results of a complex psychopathological and clinical research psycho diagnostic of a group of internally displaced people in Ukraine. So, the scientist has concluded that the most of IDP suffered the observed violations of adaptation. Moreover, they suffer on strong depression, asthenic symptoms, anxiety, inability to relax, inner tension, various fears etc. Thus, in general the studding of the psychiatric aspects IDP's status was also the subject of scientific research.

Saetre (2010) analyzes the status of forced migrants and refugees. Particular attention was paid by the scientist to the presentation of the consolidate statistics on various issues in the field under study.

Heudtlass et al (2016) investigated the access to health care and medical services by the affected groups of population, among them were: refugees, internally displaced persons (IDPs). The level of their access to it was compared with the identic ones of residents (non-displaced people). Also, on the base of statistic, that shows a higher mortality rate among vulnerable sections of the population, scholars proved that the main cause of it is the poor access of refugees and internally displaced persons to medicine.

For Akee et al (2010), first of all, the scientific interest was the theme of displacement of persons from the causes of military conflicts, ethnic differences, trafficking in human beings. A special emphasis was made by them on the analysis of statistics from countries around the world.

Thus, scientific research of these and many other scientists more closely relate to the characteristics of the legal status of the IDP in general, the definition of the mechanism for the provision of their individual rights (education, labor, medical care, etc.), the protection of the rights, freedoms and legitimate interests of the relevant subject of right.

In modern conditions of total globalization, the definition of the priority of the unification of the legal regulation of various spheres of public life, in particular – the sphere of social protection, irrespective of the country, becomes very important for the European standards of social protection of internally displaced persons, which are called to harmonize the national legislation in the investigated sphere in order to ensure the state of social security of the interests of the person and society from the impact of threats of different kinds.

An internally displaced person (IDP), is a person who left their place of habitual living. The main feature of phenomena – that such person has not crossed an international border during searching sanctuary and security. The reasons of moving may be the same as for those driving refugees, but still IDPs legally remain under the protection of their native state. Even it might be the cause of their flight, because of armed conflict, generalized violence, human rights violations, that occur in it (UNHCR, 2019).

Internally displaced persons (IDP) is the only universal unit concept used for definition of such category of persons in international law (Udovika et al., 2014). The analytical report of the Representative of the Secretary-General on Internally Displaced Persons (UN Doc. E/CN.4/1992/23) reveals the content of this term as «persons who were suddenly or unexpectedly forced to leave their homes in large quantities due to armed external and internal conflicts, systematic violations of human rights, environmental or man-made disasters, and who are in the territory of their country of origin». However, this definition could not be considered as perfect because of non-recognition of the possibility to get the appropriate status to foreigners, refugees, persons in need of temporary or additional protection, to persons displaced by small groups; to consolidate an exhaustive list of circumstances that may cause the need for internal transferring. In addition, such understanding of definition deprived people who did not have their homes, but stayed, for example, in social

protection institutions or rented housing, of a possibility to use advantages provided for forcibly displaced persons.

The last consolidation of the concept «internally displaced person» at the international level was in the UNHCR Guidelines on the Movement of Persons Domestic in 1998. According to the final version of it, such people are defined as people or groups of them who had to escape or leave their residences or homes without crossing the internationally recognized state border of the country, first of all, because of, or in order to avoid, the consequences of a military conflict, the situation of general violence, violation of human rights, different disasters of natural origin or man-made nature.

Such content of investigated definition eliminated the deficiencies of the concept «internally displaced persons» officially formulated by UNHCR earlier. In particular, it is taken into account that internal displacement may be caused not only by objective facts, events but also by the threat of their onset. It was also progressive to change the characteristic of living on the territory of their country of birth into a more suitable one – that shows that such people displaced without crossing borders of a state that were recognized by the international community. It is very important, for example, because in the circumstances of non-recognition by the international community and the Ukrainian side of the «referendum on the status of the Crimea», the entry of the Crimean peninsula into the Russian Federation, persons moving to other Ukrainian regions are not perceived as refugees in Ukraine and, accordingly, cannot obtain such status abroad.

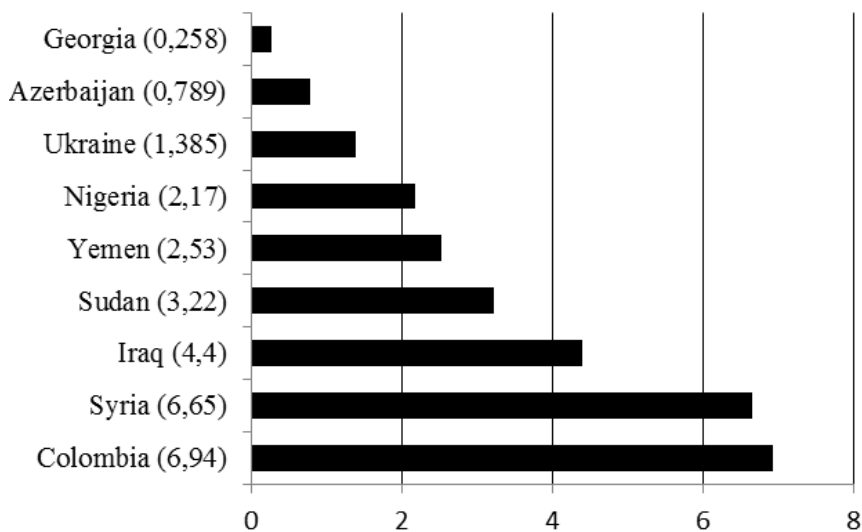
However, it should be emphasized that the Guiding Principles are not binding on countries, and hence the concept of internally displaced persons, used by them, is only descriptive and that may be changed by the legislation of each particular state through its normative consolidation. At the same time, no international document, except the aforementioned one (nor the universal, nor European, nor even more specific) contains a more detailed definition of the concept «internally displaced person».

## **2. Legal status of internally displaced persons under the legislation of certain countries**

The questions of social protection of internally displaced persons in Ukraine gets particular importance in the period when the territory of the Autonomous Republic of Crimea has been recognized by the international community as temporarily occupied, and within the Donetsk and Luhansk

regions, a long-time anti-terrorist operation (hereinafter – ATO) is being carried out (and from April 30, 2018 – an operation on Unified Forces (OUF). A significant percentage of people living on these territories were forced to leave their place of residence and move to safe parts of Ukraine due to the occupation of a part of the territory, as it is called «temporary occupation». They were afraid of the negative consequences of armed conflict, widespread manifestations of violence, massive violations of human rights, etc. So, people were displaced in order to avoid it all. In this regard, the need to provide such persons with the opportunity to exercise their rights and freedoms as well as the proper conditions for social rehabilitation has arisen before the state.

It should be noted that in modern conditions the number of internally displaced persons is significantly big. It amounts to more than 40 million people. Among the countries with the largest number of people with such a status, Ukraine ranks 8<sup>th</sup> in the world (figure 1).



**Figure 1.** Number of internally displaced persons in the world, million.

*Source:* UNHCR (2020).

At the same time, during the considerable period (2014-2017) within Ukraine, the number of internally displaced persons has steadily increased and only in 2018 began to decrease. In today's conditions, the general decline in living standards in Ukraine, political instability both inside the state and in the territories beyond its control, the number of IDP, not as fast as before, but nevertheless, increases.



Despite the fact, that since the occupation of part of the territory of Ukraine by units of the armed forces of another state in violation of the procedure established by the Constitution and laws of Ukraine, as well as international acts, and since the beginning of the ATO, a lot of time passed, the Ukrainian legislation on security of the rights and freedoms of internally displaced persons were formed quite recently. Thus, on April 15, 2014, the Verkhovna Rada of Ukraine adopted the Law of Ukraine «On ensuring the rights and freedoms of citizens and legal regime in the temporarily occupied territory of Ukraine» (Official Bulletin of Ukraine, 2014), and only on October 20, 2014 – the Law of Ukraine «On ensuring the rights and freedoms of internally displaced persons» (Official Bulletin of Ukraine, 2014).

Thus, part 1 of Art. 1 of the Law of Ukraine «On ensuring the rights and freedoms of internally displaced persons» fixes the definition of IDP. Its analysis allows highlight the features of such people. So, they may be the citizens of any state, in particular – Ukraine, also – stateless people. They should legally be residing in Ukraine and have the legal possibility to permanent residence here. The main reasons of their need to change places of origin living are: temporary occupation, armed conflict, widespread violence, human rights violations and natural or man-made emergencies. This definition is fully consistent with the definition of the «internally displaced person» enshrined in the UNHCR Guiding Principles on the Movement of Persons Internally Displaced in 1998.

In Croatia, instead of the term «internally displaced person», the term «exile» (which is similar in content) is used. The Croatian Law «On the Status of Displaced Persons and Refugees» states that a person from war-torn territory of the Croatian Republic who, individually or in an organized manner, has left its place of residence in order to avoid an immediate danger to life through aggression or other military actions, becomes an expelled person or refugee. An exile in the understanding of this law is a person who has fled from one territory to another territory of the Republic of Croatia because of the above-stated reasons.

The term «internally displaced person» is also not used in the legislation of the Russian Federation. Thus, the Law of the Russian Federation defines the notion of a forced migrant who is recognized as a citizen of the Russian Federation who has left his place of residence as a result of violence or persecution against him or his family members in other forms or as a result of the existence of a real threat of persecution on the basis of race, nationality, religion, language, as well as on the basis of belonging to a particular social

group or political views which have become the reason for the hostile actions against this person or group of persons, massive violations of public order. At the same time, according to Art. 2 The Law of the Russian Federation «On Forced Migrants» a person who has left his place of residence due to economic reasons, hunger, epidemics, natural or man-made emergencies is not considered a forced migrant.

The term «forced migrant» also is used in the legislation of Azerbaijan. Thus, according to the Law of Azerbaijan «On the Status of Refugees and Forced Immigrants» (persons resettled within the country), a forced migrant is a person forced to leave his / her permanent residence as a result of military aggression, a natural and man-made disaster in the territory of the Azerbaijani Republic, and move to another place (Article 1).

We should also pay attention to the fact that although the term «internally displaced persons» is mentioned in the normative legal acts of certain states, however, its legal definition is not given. Such a state is, for example, Moldova. It should be said that the legislation of different countries in today's socio-political conditions is characterized by two trends of development: differences in the understanding of the concept and legal status of internally displaced persons and different content of the right to social protection of persons who were forced to leave their permanent place residence due to violations (threat of violations) of their rights because of various objective reasons.

Since internally displaced persons remain within the country, they are protected by their state in accordance with generally recognized principles of international law. Basic human rights have a universal application for forced migrants. The scope of the rights of such persons should be determined in accordance with the general norms of the protection of human rights, including the rights to social protection.

It is obvious that the state itself should create the proper conditions for functioning of an effective system of social protection of this category of people. At the same time, it is impossible without observance of international standards in this sphere.

### **3. European norms for social protection of internally displaced persons**

The standard is a typical sample for something in size, form, quality; the only form of organization that holds something; something that has nothing original, peculiar; template, stencil. In its etymological and ontological sense,

the standard (English – norm, sample, model; French – to stand firmly) is a document that establishes the rules, general principles or characteristics relating to the activity or its results to achieve the optimal level of ordering in a particular sphere for a general and multiple application. Exactly international standards reflect a high level of development of legal values, achieved by world civilization and inextricably linked with the legal culture of mankind.

In view of the desire of almost every state in the world to have a social status and raise the level of social protection the expediency of using the term «international standards in the field of social protection» has no doubts. It should be understood as a social minimum, established by international legal acts, which is mandatory for signatory countries and enables the disabled to exercise their rights and freedoms in full capacity as able-bodied do. In general, supporting the thesis, pointed higher, we consider it not entirely justified to bring international standards in the field of social protection solely to creating equal conditions for the implementation of the right to social protection for able-bodied and disabled persons.

It is known that all international legal acts, and, consequently, those that establish the standards of social and economic rights of internally displaced persons, are classified according to the scope of action on universal, regional and particular (bilateral) ones. The universal norms of international law include the United Nations (UN) and the International Labor Organization (ILO), and regional acts that are valid only within a specific region (Latin America, Europe, Asia, Africa). Particular international standards in the field of social protection of internally displaced people are enshrined in bilateral international legal agreements, on the basis of which the parties assume certain obligations in this area.

Geographically, most of the countries with a particularly widespread phenomenon of internal displacement, including Ukraine, are parts of Europe, which causes the importance of regional acts adopted within the framework of the Council of Europe, the European Union (EU), the formation of European (regional) standards of the social protection of internally displaced persons, first of all, the Convention for the Protection of Human Rights and Fundamental Freedoms, 1950, as well as the European Social Charter (signed on October 18, 1961) and the European Social Charter (revised) (signed on 3 May, 1996) adopted by the Council of Europe to protect social and economic rights. This category of international instruments can also include the European Social Security Code, 1964 (revised in 1990), Recommendation 6 of the Committee of Ministers of the Council of Europe to the Member States on internally displaced

people, 2006, etc., Resolution PACE 1708 «Resolution of property issues of refugees and internally displaced persons», 2010.

Unfortunately, there is still no single European act that establishes standards for social protection for internally displaced persons. In this regard, we can say that the general principles and characteristics that relate to the social protection of forced migrants and were adopted to achieve the optimal level of order in this area of public relations, enshrined in a number of international legal acts of the European level, which define the fundamental rights of persons in the field of social protection and determine the standards for their implementation, as well as the minimum level of guarantees related to the need to restore the social status of a person due to internal displacement pits.

One of the main documents of the Council of Europe in the field of social protection is the European Social Charter (revised) (ESC (r)), which was signed on May 3, 1996 and establishes the rights that are classified according to the new reporting procedure of the Council of Europe into four thematic groups: 1) employment, vocational training and equal opportunities; 2) health care, social security and social protection; 3) labor rights; 4) children, family, migrants.

The rights and guarantees enshrined in the ESC (r) apply to all persons, and therefore belong to forced migrants, in particular: the right to work, which includes the provision of high and stable employment (Article 1), the right of children and adolescents for protection, which contains, the provision of special protection of children and teenagers from the physical and moral risks to which they are exposed (such a risk is internal displacement) (Article 7). The standards of the right of internally displaced persons in the sphere of protection against poverty and social exclusion, defined in Art. 30 ESC (r) have a great value in today's conditions. It emphasizes the responsibility of states in the framework of a common and coordinated approach to take measures to support persons who live or who may be in a situation of social exclusion or poverty, as well as members of their families; to create effective access for them, in particular, to work, housing, vocational training, education, culture and social and health care. The cited provisions are inextricably linked with the standards of the right to housing defined by the Charter, in which the main purpose of the state's activity in the defined sphere is to declare the number of homeless people and gradually eliminate homelessness; to provide the access of everyone to the proper level of housing, the establishment of affordable housing prices for low-income families (Article 31).

The standards of social protection of internally displaced persons are enshrined in many articles of the European Social Charter (revised), but first of

all they refer to special articles, which, unfortunately, have not been ratified by all signatory states – Art. 13, according to which every low-income person has the right to social and medical assistance; Art. 12, which enshrines the right of every person to social security and requires the compliance of social security in the state with the requirements of the European Code of Social Security of 1964, which contains the minimum standards of protection that States must provide in connection with nine traditional social risks, including: illness, disability, low income, survivors (not ratified by Ukraine, the Russian Federation).

Azerbaijan, in addition to the above, does not undertake to provide protection and special assistance from the state to children and adolescents who are temporarily or permanently deprived of their families (Article 17), which is very important for securing social protection of internally displaced persons children. Unlike the above-mentioned countries, the Republic of Moldova, in the moment of ratifying the European Social Charter (revised), has not committed itself to promoting the functioning of services or the creation of services that would promote the welfare and development of both individuals and groups of people in society, and as well as their adaptation to the social environment (Article 14).

According to the requirements of the ESC (r), the state should make efforts to gradually extend the social security system to a higher level, which means a one above the level required for ratification of the European Social Security Code, which has not yet been ratified by any of the above countries (only signed by the Republic of Moldova on September 16, 2003, Ukraine on November 10, 2016), and consequently, it is difficult to predict main trends of raising the level of social security in these countries in general, and of internally displaced persons in particular.

The 1950 Convention for the Protection of Human Rights and Fundamental Freedoms gets the core importance of international instruments that set European standards for the right to social protection for internally displaced persons. Article 1 of Act provides that for every person under the jurisdiction of the State signatory to the Convention, the rights and freedoms set forth in section I of this international Act are guaranteed, including the right to life (Article 2), the right to liberty and personal integrity (Article 5), the right to respect for private and family life (Article 8) etc.

It should be noted that the Convention of the Protection of Human Rights and Fundamental Freedoms, as opposed to other international treaties, is a complex and complicated legal mechanism for the protection of human rights, which includes its own convention norms, as well as decisions of the European

Commission of Human Rights and the Committee of Ministers of the Council of Europe, judicial practice of the European Court of Human Rights, case law, generally accepted principles and norms of international law, specific methods of interpretation of the Convention, scientific doctrine on its application, etc. The peculiarity of the practice of the European Court of Human Rights is that when new decisions are made, new standards of justice are established, as well as the interpretation of the rules of the Convention, which, given the legal technique, cannot be formulated sufficiently clearly and require additional interpretation.

The mandate of the European Court of Human Rights also provides advisory opinions on the interpretation of the provisions of the Convention, which often extend the content of the human rights standards established by this international instrument.

There is a valuable opinion of Dudash (2010), who says, that the practice of the European Court of Human Rights has a dual legal nature, which manifests itself on the one hand in its law – enforcement nature, and on the other – in the legal text. Thus, the decisions of the ECHR contain an individual, formally mandatory rule of conduct, which is to determine whether or not there is a violation of the right provided for by the Convention and, depending on the consequences of such a violation, the imposition of just satisfaction. On the other hand, the interpretation of the Convention contained in the judgments of the Court is formally binding on all Council of Europe member states, since only the ECHR is empowered to officially interpret it, while the decisions of the European Court of Human Rights by themselves do not create new ones, do not change nor abolish the current norms of law, cannot go beyond the provisions of the Convention (at least declaratively).

Despite the fact that the 1950 Convention on the Protection of Human Rights and Fundamental Freedoms does not contain provisions defining the standards of the right to social protection (including internally displaced persons); nevertheless, the ECHR has adopted a large number of decisions on the results of consideration affairs in the field of social security. In particular, failure to provide or improper implementation of social protection results in the violation of the right to life of Article 2 of the Convention, the provisions of this international act on the prohibition of discrimination (Article 14), the protection of property (Article 1 of Protocol 1), etc. So, the citizens of the member states of the Council of Europe have the opportunity to protect the right to social security in accordance with European standards motivating the appeal to the ECHR by breach provisions of the Convention.

The analysis of the case law of the European Court of Human Rights provides grounds for forming the position that in resolving issues concerning the violation by the States of the provisions of the Convention on the Protection of Human Rights and Fundamental Freedoms and its Protocols, much attention is paid to the observance of the principle of «lawful or legitimate expectations» and the protection of human rights through the prism of this principle.

At the same time, the ECHR notes that a person does not necessarily must have a registered right of ownership, since for his forced displacement he might have his own home built on the land parcels of ancestors, or home belonging to his parents, etc. The Court also noted that apart from private ownership, the person has uncontested rights to joint land plots in populated areas such as pastures, expeditions, forest lands, etc., and therefore it is entirely reasonable to conclude that all of these economic resources and income, may be qualified as «property» for the purposes of Article 1 of Protocol No. 1 of the Convention. The Court also noted that, despite the legitimacy of the State's interference with the property of a person envisaged by the provisions cited in Protocol 1 of the Convention, nevertheless given the lack of compensation for deprivation of property, as well as the need to look for work and refuge in overpopulated towns and cities, the unemployment rate in them, such interference cannot be considered proportional, and therefore the corresponding right of ownership must be effectively protected.

A number of standards for the social protection of internally displaced persons are also enshrined in special acts, which include the Resolution of the Parliamentary Assembly of the Council of Europe № 1708 «Resolution of property issues of refugees and internally displaced persons» dated January 28, 2010. Thus, this document provides that the destruction, occupation and confiscation of the remaining property violate the rights of victims, prolong their displacement and complicate the process of reconciliation and peace-making. In this regard, the PACE calls on the participating States to guarantee timely and effective compensation for lost access and rights to housing, land and property left internally displaced persons; provide fast, accessible, and effective procedures for satisfaction of claims.

Art. 19 of the Law of Ukraine «On Combating Terrorism» fixes that the compensation of losses caused to citizens by a terrorist act is carried out at the expense of the state budget in accordance with the law. Thus, due to the fact that the Decree of the President of Ukraine dated April 14, 2014 № 405/2014 has initiated the antiterrorist operation, aimed at overcoming the terrorist threat and preserving the territorial integrity of Ukraine, then all losses incurred to the

citizens of Ukraine in the area of its conduct should be reimbursed at the expense of the State Budget of Ukraine. At the same time, this provision does not apply to the present, despite the fact that the material losses suffered by residents of Donetsk and Lugansk oblasts have been undergoing for more than four years, since no regulatory-legal act has been adopted to date determined the order of such a refund, its size, etc.

Unlike Ukraine and most of the world, where an effective mechanism for compensation of material damage to internally displaced persons has not been created (Azerbaijan, Armenia, Georgia, etc.), compensation for the material damage to the internally displaced population connected with the restoration of damaged and damaged dwellings was carried out by Moldova and Transnistria.

The next international act of the European level, which defines the standards of social protection for internally displaced persons, is the Recommendation of the Committee of Ministers of the Council of Europe to Member States on internally displaced persons, adopted at the 961st meeting of the Deputy Ministers on April 5, 2006, which reaffirms the obligation of Member States to take appropriate measures to prevent, on the one hand, actions that may violate the right of internally displaced persons to live, bodily integrity, freedom and security, and, on the other hand, to effectively investigate possible violations of these rights. This should especially relate to the organization and equipment of camps for internally displaced persons. So, the problem of housing is one of the most painful for internally displaced persons. It has to be solved in a differentiated way depending on the plans and intentions of the settlers, as well as in various ways, from the construction of new housing to temporary accommodation.

As the experience of other countries shows, the problem of housing – is the most difficult and remains unresolved for years and even decades. For example: in Azerbaijan, 32 % of settlers from Nagorno Karabakh still live in temporary housing provided in the nineties of the last century, so-called collective centers (Nurkic et al., 2019); in Georgia, about 45% of internally displaced persons continue to live in so-called collective centers, which were equipped immediately after the arrival of forced migrants in the early 1990's: in hospitals, hotels, holiday homes, etc. (National Institute for Strategic Studies under the President of Ukraine, 2019).

In Ukraine, the placement of internally displaced persons in the resettlement zones was carried out with the conviction that this is a temporary phenomenon and a temporary need. People were often resettled in summer



camps, sanatoriums, and institutions subordinate to local authorities. Another way to resolve the housing issue of internally displaced persons, elected by Ukraine, is the state aid for renting housing. The procedure for payment of this assistance is established by the Cabinet of Ministers of Ukraine Resolution No. 505 «On the Provision of Monthly Targeted Assistance to Internally Displaced Persons to Cover the Cost of Living, Including for the Payment of Housing and Communal Services» of October 1, 2014, item 3 stipulates that for persons who receive pensions, children, students of the full-time form of education of higher education institutions and students of institutions of vocational education.

Recommendation of the Parliamentary Assembly of the Council of Europe No. 1877 «Forgotten people of Europe: protection of human rights of persons displaced for a long time», dated June 24, 2009, expands the content of the right to social protection of internally displaced persons and defines its standards. The document highlights the importance of ensuring access to social security for internally displaced persons, including social housing programs, social security and retirement benefits (where applicable). Not the last place in this list is the promotion of social and economic integration of forced migrants, in particular full and equal access to vacancies offered by private or public employers (Leheza et al., 2021).

It should be noted that not every state that faces the problem of internal displacement has developed successful legislation aimed at providing forced migrants with the right to effective employment. To improve legislation, the implementation of the regulatory policy in the field of economic activity should include the functioning of the regulatory impact assessment institution (Koval, Pukała, 2017; Vivchar, Redkva, 2018).

The state creates the necessary conditions for the employment of internally displaced persons and the pursuit of entrepreneurial activity by setting quotas in public institutions and organizations, creating new jobs. In this aspect, the Law of Ukraine «On Employment of the Population» from 2012 is extremely progressive. The provisions of which for internally displaced persons, in addition to general guarantees in the field of employment, also provide special measures, that include: compensation for actual transport costs for moving to another administrative-territorial unit of the place of employment, as well as expenses for the passage of the preliminary medical and narcological examination, if it is necessary for employment; compensation of the employer's expenses for labour (but not higher than the average wage in the respective region for the last month) for a maximum of six calendar months; compensation of expenses of the employer, which employs registered unemployed persons

from internally displaced persons for a period not less than a year, for retraining and professional development of such persons (table 1).

**Table 1.** Internally displaced persons in selected regions of Ukraine.

Region name	Total number of IDPs (2018)	Received employment services	
		Number	Percentage of the total number of IDPs
Vinnitsa	13 251	1 361	10,3%
Zaporozhye	118 878	4 968	4,2%
Ivano-Frankivsk	4 116	809	19,7%
Poltava	30 684	3 417	11,1%
In general in Ukraine	1 514 719	64 297	4,24%

**Source:** according to the State Employment Service's data (2019).

Statistical data proves that not only the consolidation of the respective rights of internally displaced persons in Ukraine in the field of social protection in the case of unemployment but also their active implementation is advanced in this aspect.

#### **4. Value of social protection of internally displaced people in ensuring social security**

The concept of «social security» in branch science until now has not found its final definition and is interpreted by scientists in totally different ways: as the state of safety of individuals, societies, and states from a set of threats of social, economic, political, environmental, man-made nature; the state of stable protection of the vital interests of the individual, society and the state from threats in all spheres of life, which depends and is determined by the actions of the subjects of security, which are taken by them in the process of its provision, etc.

In our opinion, the most successful definition of the concept of social security, formulated in the Law of Ukraine «On the Fundamentals of National Security of Ukraine», according to which the investigated state of protection of

the individual, society and the state ensures sustainable development of society, timely detection, prevention and neutralization of real and potential threats to their interests (Dobrovolskienė et al., 2017).

Experts determine that the social security of man is manifested primarily in: favourable and safe living conditions (63.8%); availability of income sufficient for a decent life (56.2%); Confidence in the future and future of the family (39.0%); protection of the rights and freedoms of the individual (33.3%); possibilities of self-realization and self-defence (28,6%); a safe social and environmental environment (26.7%); the prevalence among the population of values of activity, self-directedness and responsibility (18.1%); job placement guarantees (15.2%).

**Table 2.** Assessment of external and internal factors of man's social security.

Indicators of social security	% to the number of experts	Rank
Favorable and safe living conditions	63,8	1
Having enough income for a decent life	56,2	2
Confidence in their future and future family	39,0	3
Protection of the rights and freedoms of the individual	33,3	4
Possibilities of self-realization and self-defense	28,6	5
Safe social and environmental environment	26,7	6
The prevalence among the population of values of activity, self-directedness and responsibility	18,1	7
Employment guarantees	15,2	8
Qualitative medical services	14,3	9
Ability to gain quality education	13,3	10
Healthy lifestyle	1,9	11
Other	1,9	-

Unfortunately, it should be noted that in the context of the armed conflict that continues in Ukraine since 2014, it is too early to speak of a high level of social security of a significant number of internally displaced people, both in Ukraine and in the world.

Thus, the achievement of social security of a person is possible only in the conditions of responsible and conscious attitude to these questions of all subjects of this process (human, society, state). However, the social risks caused by the occupation of part of the territory of Ukraine, the conduct of the ATO, caused not only the intensification of internal migration, but also actualized the problem of the outflow of human potential abroad, which indicates an unsatisfactory level of human security. According to the data of group «Rating», published in March 2019, more than a third of Ukrainians (35%) would like to leave their country forever, and over the past year, this figure has increased by 5%.

One of the reasons for the current situation is insecurity of the population of Ukraine with a decent standard of living. The existence of internally displaced persons characterizes critical living standards – a significant percentage of such people are below the poverty line. Poverty is the inability due to the lack of funds to maintain a decent lifestyle, in determining the criteria of which the crucial importance is a specific period of time and society. According to sociological monitoring, 47% of internally displaced persons in determining the material condition of their families indicated that they only have enough food, 31.4% of respondents – that there is enough money for living on the whole (Leheza et al., 2021).

At the same time, 49% of respondents determine the financial situation of their family as an average, and 45.5% – as poor. 61% of the polled identified the spread of poverty as an obstacle to social security in the expert poll. Thus, ensuring social security of a person is a prerequisite for the development of a healthy society and should begin with decent living conditions and poverty reduction, which is impossible without the establishment of an effective system of social protection, including internally displaced persons.

In order to ensure a decent standard of living for IDP and social security, the most complicated is the residential problem in solving which social protection measures are of key importance. Thus, authorized persons in the field of social protection conduct a constant search for suitable accommodation for such persons, testing them for compliance with sanitary norms, etc. Two thousand 261 objects of different forms of ownership were identified, in which it is possible to accommodate 26 thousand 488 internally displaced persons.

However, this is not enough since most IDP are forced to solve a housing issue on their own. The issue of employment is not the last place in the provision of social security for IDP. During January-October 2018, 1.2 million registered unemployed received state job placement services. As of November 1, 2018, 10 unemployed claimed one job, however, despite this difficult labor market situation, since the beginning of the year, 631,000 citizens were employed by the Employment Service, almost a million people – 941.1 thousand were in receipt of assistance on unemployment.

Every second former unemployed person opened his own business in the field of trade, repair of motor vehicles, every tenth – in professional, scientific and technical activities, the same – in agriculture, forestry and fish farms. Thus, the creation of an effective system of social protection of IDP, taking into account its European standards, is a prerequisite for ensuring social security in the state (Leheza et al., 2021).

#### **D. CONCLUSIONS**

The European standards of social protection of internally displaced persons are a set of norms fixed in the acts of the Council of Europe, the European Union, decisions of the European Court of Human Rights, which, as a result of their implementation in the internal law of the states become mandatory for implementation and determine the decent living conditions of internally displaced persons, the responsibilities of the state in this area for ensuring security and full decent development of personality. In the system of European standards for social protection of internally displaced persons, the relevant norms developed by various institutions of the Council of Europe are extremely important.

The European Social Charter (revised) is one of the main acts defining European standards for the social protection of internally displaced persons. The legal acts of most European countries, where the phenomenon of forced displacement has become extremely spread in general conform to it.

Despite the ratification by the majority of the countries mentioned above of the provisions of the Council of Europe, which define the standards of the right of persons, including internally displaced, to have access to adequate housing, nevertheless, given the practice in this area, we cannot talk about creating of effective national guarantees for the exercise of this right yet. Thus, internally displaced families should be provided with housing through: the creation of specialized camps for the temporary resettlement of internally displaced

persons; providing financial support for buying or repairing of own homes; construction of new housing; application of priority criteria for housing (large families, single-parent families, etc.).

At the same time, the development of projects for the construction of permanent and social (temporary) housing for internally displaced persons should be conducted taking into account their needs and potential. In the construction of new buildings, it is expedient to use: 1) the latest technologies of rapid construction of environmental and hyperenergy materials; 2) the possibility of providing preferential loans from the state and foreign creditors, as well as state and foreign aid. It is also advisable to introduce certain quotas for housing in new buildings built for migrants, as this hinders the integration of immigrants in areas of new residence. Thus, countries seeking to establish a truly effective system of social protection for internally displaced persons are urged to bring national legislation into line with the Council of Europe standards in the field of social protection with a view to ratifying certain provisions of the ESC (r) and the European Code of Social Security.

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