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COMPARATIVE LEGAL ANALYSIS OF RESIDENCE CONDITIONS OF FOREIGNERS IN UKRAINE AND ABROAD

Abstract. It is shown that after February 24, 2022, the life of every Ukrainian changed radically, due to which peaceful Ukrainians were forced to seek refuge in neighboring states. In particular, Poland, Germany, Denmark, Romania, Bulgaria, Greece, Sweden. In connection with the extraordinary events, unprecedented conditions were created for the citizens of Ukraine. Currently, Ukrainians can receive refugee status or additional protection. In connection with the full-scale invasion, the EU Council, meeting in Brussels on March 4, 2022, voted to apply Directive No. 2001/55/EC of July 20, 2001 on minimum standards for the provision of temporary protection in the event of a mass influx of displaced persons and on measures that contribute to the balance of efforts between member states regarding the reception of such persons and the bearing of their consequences.

The directive bypasses the traditionally overburdened procedure for granting asylum (obtaining refugee status/subsidiary protection) and offers a quick and simplified way to access protection in EU countries. In EU countries, refugee status is an individual right that is granted after a special administrative and legal process that determines whether a person has a reasonable risk of being persecuted. Persons who can receive refugee status can be citizens of Ukraine who left the territory of Ukraine due to the war, as well as persons who lived in the territory of Ukraine on legal grounds, but have the citizenship of other countries. In accordance with the Convention on the Status of Refugees of 1951 and the Protocol on the Status of Refugees of 1967 and the Law of Ukraine "On Refugees and Persons in Need of Additional or Temporary Protection". In Ukraine, it is also possible to obtain the status of temporary protection for foreigners and stateless persons.

It is proposed to develop a system of marketing measures to attract labor for the purpose of rebuilding Ukraine, since today in Ukraine quite little is paid to refugees and persons who have received temporary protection. Such provision of refugees and persons wishing to receive temporary protection will not motivate foreigners to go to Ukraine.

Keywords: *temporary protection, refugees, legal analysis, benefits, social security.*

Introduction. After February 24, 2022, Ukrainians were forced to seek asylum abroad, which led to the need to study the opportunities, rights, and responsibilities of our citizens abroad. Such a situation intensified the need to

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compare the conditions of stay of Ukrainians abroad and the conditions of stay of foreigners in our country in order to understand the situation in this direction. Also, the lack of labor in the market of Ukraine, its loss during the war and the need to find and attract foreigners for the purpose of restoring our country made this study relevant.

Analysis of recent research and publications. V. Pedorenko, T. Alekseenko, L. Gonchar, T. Kunytsia, D. Bybyk, A. Svyaschuk, Z. Sprynska, Yu. Maksimenko, O. Morozova-Johannessen, V. Kerdyvar studied the problem of refugees and investigated displaced persons. Among foreign researchers, E. Fiddian-Qasmiyeh, G. Loescher, K. Long, N. Sigona studied this problem. After the full-scale invasion, the issue of refugees and resettlement became the most urgent issue, and also determined the need to find a country with better living conditions for Ukrainian refugees.

The purpose of the article is to compare the living conditions of Ukrainian citizens who have received temporary protection or refugee status with similar conditions in Ukraine.

Formulation of the main material. After February 24, 2022, the lives of Ukrainians underwent radical changes, as they were forced to seek refuge in neighboring states such as Poland, Germany, Denmark, Romania, Bulgaria, Greece and Sweden. This led to the creation of extraordinary conditions for Ukrainian citizens who are in difficult circumstances. Ukrainians have the opportunity to obtain refugee status or additional protection in the countries where they seek asylum. This is an important step to ensure the safety and protection of those who find themselves in difficult situations due to hostilities. The Council of the EU adopted a decision on the application of Directive No. 2001/55/EC dated July 20, 2001 on minimum standards for providing temporary protection in the event of a mass influx of displaced persons. This directive simplifies the procedure for granting protection and ensures quick access to protection for those who need help in EU countries.

Temporary protection does not mean refugee status under the Convention Relating to the Status of Refugees dated July 28, 1951, which provides rights similar to a residence permit. However, persons who have received temporary protection in the EU can apply for refugee status at any time. By the way, persons who received temporary protection in Ukraine can also apply for refugee status. In 2002, Ukraine joined the UN Convention of 1951 and the Protocol of 1967. Consequently, Ukraine has joined international treaties and conventions related to temporary protection and obtaining refugee status (Nikitin, 2020).

In accordance with the Law of Ukraine "On Refugees and Persons in Need of Additional or Temporary Protection" dated July 08, 2011 No. 3671-VI (hereinafter referred to as the Law), Ukraine provides protection to foreigners and stateless persons seeking it on the territory of Ukraine, through: recognition a refugee; recognition as a person in need of additional protection; recognition as a person in need of temporary protection. In EU countries, refugee status is an individual right that is granted after a special administrative and legal process that determines whether a person has a reasonable risk of being persecuted. A person loses his refugee status if he returns to his country or acquires a new citizenship.

Persons who can receive refugee status can be citizens of Ukraine who left the territory of Ukraine due to the war, as well as persons who lived in the territory of Ukraine on legal grounds, but have the citizenship of other countries. Stateless persons can also request refugee status. Obtaining refugee status makes sense if a person plans to continue living in an EU country. Restrictions for a person when receiving refugee status: impossibility to leave the host country until the moment of receiving the status; impossibility to return to Ukraine after receiving the status; impossibility to get a job before obtaining the status, as well as in case of refusal to grant it; selection of documents certifying the identity of the applicant.

In Ukraine, a refugee is a person who is not a citizen of Ukraine and, due to well-founded fears of becoming a victim of persecution based on race, religion, nationality, citizenship (citizenship), belonging to a certain social group or political beliefs, is outside the country of his/her citizenship and cannot use protection of this country or does not want to use this protection due to such fears, or, not having citizenship (nationality) and being outside the country of his previous permanent residence, cannot or does not want to return to it due to the said fears. A person in need of additional protection is a person who is not a refugee in accordance with the Convention on the Status of Refugees of 1951 and the Protocol on the Status of Refugees of 1967 and the Law of Ukraine "On Refugees and Persons in Need of Additional or Temporary Protection", but needs protection because such a person was forced to come to Ukraine or remain in Ukraine due to a threat to his life, safety or freedom in the country of origin due to fear of the death penalty or the execution of a death sentence or torture, inhuman or degrading treatment or punishment, or of widespread violence in situations of international or internal armed conflict or systematic violation of human rights and is unable or unwilling to return to such a country due to said fears.

Ukraine also provides for the possibility of obtaining temporary protection status for foreigners and stateless persons who are forced to seek protection in Ukraine en masse as a result of external aggression, foreign occupation, civil war, clashes on an ethnic basis, natural or man-made disasters or other events that violate public order in a certain part or in the entire territory of the country of origin (Malynovska, 2021). Summarizing all of the above, at the legislative level, the process of obtaining refugee status or temporary protection is similar in EU countries and Ukraine.

The difference between Ukrainian refugees in Europe and internally displaced persons in Ukraine is that social benefits are paid regularly in a European state and learning the language of the host country is mandatory. In Ukraine, during the martial law, migrants are offered jobs, because the state provides additional financing for employers' companies for employed migrants, but due to mobilization, able-bodied men deliberately do not get a job, fearing mobilization. Due to such relations, there are fewer workers in Ukraine than in Europe. The brutal war forced millions of Ukrainians to leave their homes and seek refuge abroad. According to the latest data from the Ministry of Internal Affairs, more than 7.7 million Ukrainians left Ukraine after February, 24, 2022. Of course, no one wants to live far from the Motherland. Considering the above,

let's examine the conditions of stay of Ukrainians in EU countries (UN, 2022).

Currently, the largest number of Ukrainians reside in Poland. According to the latest data, more than 3.6 million Ukrainian citizens left the country since the beginning of the war. Some cities are already unable to receive refugees, including Krakow and Warsaw.

However, other cities continue to accept and support refugees from Ukraine, including financially. Yes, cash payments can be received in Bartoszyce, Koszalin, Olsztyn, Przemyśl and Stargard. As part of the program, the applicant will receive PLN 710 within three months. For each member of the family, the amount of assistance will be 610 zlotys. However, as of now, the acceptance of online applications is suspended, as UNHCR is processing the large number of applications that have already been submitted.

Also, our citizens are provided with housing, food and things necessary for the first time. In addition, many Ukrainians manage to get a job in Poland. Education and medicine are available, and free language courses are available.

In addition, a new law was adopted according to which the rights and opportunities of Ukrainians are equal to those of Poles. That is, our citizens can obtain a Polish Pesel identification number using a simplified procedure. With its help, you can even open a business. It is allowed to stay in the country for 18 months, but it is possible to extend the period.

Canada began accepting Ukrainian citizens in March under the CUAET program, under which, by filling out a questionnaire, Ukrainians can obtain a Canadian visa under a simplified procedure for a period of 10 years (or until the expiration of the foreign passport). The visa is issued free of charge.

The country's government also agreed to a one-time payment to all arriving Ukrainian refugees in the amount of 3,000 Canadian dollars per adult and 1,500 Canadian dollars per child. Some provinces offer additional financial benefits, such as Manitoba or Saskatchewan. In addition, upon arrival in Canada, Ukrainian refugees are accommodated in a hotel free of charge, where they can live for the first weeks while they complete all the necessary documents.

The Ukraine Sponsorship Scheme (Homes for Ukraine) program has been introduced in the country for Ukrainians who do not have relatives in the United Kingdom. It enables citizens of Ukraine and their relatives to come to Great Britain, where they are assigned a person who is ready to provide the refugees with their housing for at least 6 months. Participation in the program is free, but you will have to find a sponsor yourself (the application is submitted online). Ukrainians are allowed to live, work and study in the UK, as well as access state benefits. Ukrainians are offered to receive:

- universal credit (a payment for people of working age to help cover living costs in case of low income);
- pension credit (extra money to help with living costs for people who are over 66 years old);
- disability assistance;
- care allowance (if care for someone for at least 35 hours a week);
- child benefit.

To receive benefits, newly arrived Ukrainians should contact the nearest employment center.

There are already about 900,000 refugees from Ukraine in Germany, and it is not surprising, because the conditions there are quite comfortable for them. Ukrainians there can apply for social and financial assistance:

- 449 euros for a single adult;
- 404 euros for an adult partner;
- 360 euros for people under the age of 25;
- 376 euros for teenagers from 14 to 17 years old;
- 311 euros for children aged 7 to 14;
- 285 euros for small children under the age of 6.

Citizens of Ukraine are hired according to a simplified scheme – each refugee who has the status of temporary protected person, receives a work permit (but this does not apply to those who are in Germany without a visa for a period of 90 days). In addition, Germany has introduced free language courses, as well as help with housing. In particular, they provide places in the premises of gymnasiums or dormitories, if it is not possible to find a separate apartment or room.

There are currently more than half a million Ukrainians in Romania. You can enter there without a visa, having only one passport – foreign or Ukrainian, valid for 90 days. In the case of submitting an application for asylum, citizens of Ukraine may remain in Romania throughout the period of consideration of the application. In addition, the right to asylum is granted for an indefinite period. After submitting an application, Ukrainians have the right to employment in the country and free medical care and education. They also help with housing in Romania.

In Ukraine, to obtain refugee status or temporary protection, you need to contact the State Migration Service of Ukraine. As a refugee in Ukraine, you can receive UAH 3,000 for 1 child or 1 person with a disability. UAH 2,000 is paid per person. But there are restrictions if the above-mentioned persons have transport, except for cars bought by volunteers for the needs of the Armed Forces, or are owners of land plots, or apartments, houses worth UAH 100,000, except for housing received at the expense of the State budget. They have more than 100,000 hryvnias in their bank account, have currency or bankable metals worth more than 100,000 hryvnias. They have housing in regions of Ukraine where there are no active hostilities. If one of the above is present, payments to refugees are not made.

Any person who has received the status of a refugee or temporary protection can apply to any state medical institution in Ukraine (applies to disabled people and children). According to this, the National Health Union of Ukraine regulates the possibility of visiting a specialist (to whom this person applies) for the presence of a Ukrainian document confirming the identity. In addition, a certain amount of funds is allocated from the State budget for medicines for the above-mentioned persons (for needs).

Conclusions. Ukraine joined international treaties and the Convention on the Status of Refugees. The process of obtaining temporary protection and refugee status in Ukraine and EU countries is similar. However, the conditions of stay of refugees in Ukraine and their social security in Ukraine are inferior. We propose to develop a system of marketing activities to attract labor force for

the purpose of rebuilding Ukraine, since today in Ukraine quite little is paid to refugees and persons who have received temporary protection. Such provision of refugees and persons wishing to receive temporary protection will not motivate foreigners to go to Ukraine. Prospects for further scientific research are the development of material and non-material measures to encourage refugees and persons in need of temporary protection to go to post-war Ukraine for its development.

Conflict of Interest and other Ethics Statements

The authors declare no conflict of interest.

References

- UNCM. (2022). UN counts more than 8 million internally displaced persons in Ukraine URL : <https://www.dw.com/ru/oon-naschitala-v-ukraine-bolee-8-mln-vnutrennih-pereselencev/a-61749063>.
- Moldovans have left russia en masse: in 2 years, their number has decreased by 3.5 times. URL : <https://point.md/ru/novosti/obschestvo/moldavane-massovo-pokinuli-rossiiu-za-2-goda-ikh-chislo-umenshilos-v-3-5-raza/?amp=1>.
- UNGA. (2021). UN General Assembly adopted a resolution on the situation of internally displaced persons and refugees in Georgia URL : <https://www.news.un.org/ru/story/2021/06/1404842>.
- Malynovska, O. (2021). Migrants ta migrantska polityka v Ukraini: transformatsiyi doby nezalezhnosti [Migration and migration policy in Ukraine: transformations of the age of independence]. *Migration & Law*. 1 (1). Pp. 10-26. Doi : <https://www.doi.org/10.32752/2786-5185-1-1-10-26>. [in Ukr.].
- Nikitin, Y., Zolka, V., Korol, M. et al. (2020). Konstytutsiyne pravo na okhoronu zdorov'ya ta medychnu dopomohu v Ukraini v umovakh pandemi COVID-19 [Constitutional Right to Health Protection and Medical Care in Ukraine in the Context of the Pandemic COVID-19]. *Journal of Politics and Law*. 13 (4). Pp. 99-109. Doi : <https://www.doi.org/10.5539/jpl.v13n4p99>. [in Ukr.].
- Górny, A., Madej, K. & Porwit, K. (2020). Evolution or revolution? Immigration from Ukraine to the Warsaw agglomeration from the perspective of 2015-2019. CMR Working Papers. No. 123/181. URL : https://www.migracje.uw.edu.pl/wp-content/uploads/2020/10/WP123181_end2.pdf. [in pol.].
- In Ukraine – 1.44 million internally displaced persons from Donbass and Crimea. URL : <https://www.golosameriki.com/a/ukraine-refugees-and-displaced/5469633.html>.
- Libanova, E. (2018). Zovnishnya trudova migrantska ukrainciv: masshtaby, prychny, naslidky [External labor migration of Ukrainians: scope, causes, consequences]. *Demography and Social Economy*. 2 (33). Pp. 10-26. Doi : <https://www.doi.org/10.15407/dse2018.02.11>. [in Ukr.].
- IOM. (2015). Doslidzhennya z pytan' migrantski ta torhivli lyud'my: Ukraina [Research on migration and human trafficking: Ukraine]. URL : https://iom.org.ua/sites/default/files/pres_kit_gfk_iom2015_ua_fin_3_2.pdf. [in Ukr.].
- Cajka, P., Jaroszewicz, M. & Strielkowski, W. (2014). Migration incentives and flows between Belarus, Ukraine and the European Union: a forecasting model. *Economics and Sociology*. 7 (4). Pp. 11-25. Doi : <https://www.doi.org/10.14254/2071-789X.2014/7-4/1>.

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**ПОРІВНЯЛЬНО-ПРАВОВИЙ АНАЛІЗ УМОВ ПРОЖИВАННЯ
ІНОЗЕМЦІВ В УКРАЇНІ ТА ЗА КОРДОНОМ**

Анотація. Показано, що Після 24 лютого 2022 року життя кожного українця кардинально змінилося у зв'язку з чим мирні українці вимушені були шукати притулку у сусідніх державах. Зокрема, Польщі, Німеччині, Данії, Румунії, Болгарії, Греції, Швеції. У зв'язку з екстраординарними подіями для громадян України були створені безпрецедентні умови. На сьогодні українці можуть отримати статус біженця чи додатковий захист. У

зв'язку з повномасштабним вторгненням Рада ЄС на засіданні в Брюсселі 4 березня 2022 року, проголосувала за застосування Директиви від 20 липня 2001 року № 2001/55/ЄС про мінімальні стандарти надання тимчасового захисту у разі масового напливу переміщених осіб та про заходи, що сприяють збалансованості зусиль між державами-членами щодо прийому таких осіб та несення їх наслідків.

Директива обходить традиційно перевантажену процедуру надання притулку (отримання статусу біженця/додаткового захисту) і пропонує швидкий і спрощений шлях доступу до захисту в країнах ЄС. У країнах ЄС статус біженця – індивідуальне право, яке надається після спеціального адміністративного та юридичного процесу, що визначає, чи є у особи обґрунтована небезпека бути переслідуваними. Особами, які можуть отримати статус біженця, можуть бути громадяни України, які залишили територію України через війну, а також особи, які проживали на території України на законних підставах, але мають громадянство інших країн. Відповідно до Конвенції про статус біженців 1951 року і Протоколу щодо статусу біженців 1967 року та Закону України "Про біженців та осіб, які потребують додаткового або тимчасового захисту". В Україні також передбачена можливість отримання статусу тимчасового захисту для іноземців та осіб без громадянства.

Запропоновано розробити систему маркетингових заходів для залучення робочої сили з метою відбудови України, оскільки на сьогодні в Україні сплачується досить мало біженцям та особам, що отримали тимчасовий захист. Таке забезпечення біженців та осіб, що бажатимуть отримати тимчасовий захист не буде мотивувати іноземців їхати в Україну.

Ключові слова: тимчасовий захист, біженці, правовий аналіз, виплати, соціальне забезпечення.

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