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Social Rights of Internally Displaced Persons in Ukraine: New Challenges in The Context of Russian Full Scale Military Aggression[1]

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Summary: The article is devoted to the analysis of main social rights of internally displaced persons and their realisation after Russia's full-scale invasion in Ukraine. The current Ukrainian national legislation on the IDPs social protection has been analysed with the specific focus on social payments and housing through the Ukraine's ability to guarantee all basic social rights to IDPs and via the lens of new challenges and problems that appeared after the beginning of the war. The special attention was also drawn to the importance of sufficient international support and assistance for IDPs' social protection in Ukraine.

Keywords: social rights, right to housing, right to social protection, internally displaced persons, war in Ukraine.

1 Introduction

Since the WWII millions of people have been becoming displaced who fled from their places of living due to not only environmental, natural and technolog-

1 This paper was prepared within the implementation of the project "The Approximation of Ukrainian Social and Labour Legislation to EU Law" (ID number 1233330) supported by MSCA4Ukraine action. Postdoctoral fellow Alla Fedorowa implements this project at the Faculty of Law, Palacký University Olomouc, Czech Republic under supervision of Ondrej Hamuľák. We are grateful to the European Commission and Alexander von Humboldt-Stiftung for their support in carrying out the research activities in this project. The views and opinions expressed in this paper are those of the authors and do necessarily reflect the official policy or position of the European Commission and Alexander von Humboldt-Stiftung.

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ical disasters, but also due to armed conflicts and violence. The majority of such forced displaced people have been moving within the territory of their home country, not crossing internationally recognized borders.[2]

At the end of 2022, the numbers of internally displaced persons (hereinafter, "IDPs") in the world reached 71,1 million according to the Internal Displacement Monitoring Centre's data.[3] Despite the bigger numbers of countries with IDPs due to disasters, the number of IDPs on these grounds consists less than 15 % from the total amount; more than 80 % of IDPs became such in a result of conflicts and violence. The same configuration remains in Europe, where more than 10 countries faced with internal displacement due to the conflicts, e.g., Armenia, Azerbaijan, Georgia, Turkey, Cyprus, Croatia, Kosovo, Serbia, Bosnia and Herzegovina, Russia, Moldova. Since the beginning of armed aggression and conflict in the Eastern regions of Ukraine and occupation of Crimean Peninsula by Russia, Ukraine has also encountered internal displacement and taken a leading position by the numbers if IDPs in Europe reached almost 1,8 million people in the middle of 2016 that have been slightly reducing in the following years till 1,5 million people. At that time, Ukraine ranked fourth in the world in terms of the number of new IDPs after Yemen, Syria and Iraq[4] and it was the largest flow of internally displaced persons in modern history of Europe.

These horrible statistics notwithstanding, the situation was changed dramatically in February 2022 when the full scale Russian military aggression began. By May 2022 almost 8 million people have been internally displaced in Ukraine and almost 5 million of IDPs were officially registered by the end of 2022, not taking into account millions of people who fled the territory of Ukraine.

Staying within their own country and remaining under the protection of its government, internally displaced persons have the same rights and freedoms as other nationals of the state. However, due to displacement they became vulnerable persons who need, in most cases, additional protection that must be guaranteed and organized by national authorities which "have primary duty and responsibility to provide protection and humanitarian assistance to internally

2 Migration data portal. Internally displaced persons. Available at <https://www.migrationdataportal.org/ukraine/crisis-movements#:~:text=Internally%20Displaced%20Persons%20(IDPs),nearly%20339%2C000%20IDPs%20(5%25)> [accessed 26 October 2023]; UKRINFORM, 4,867,106 migrants were officially registered in Ukraine. 10.01.2023. Available at: <https://www.ukrinform.ua/rubric-society/3649695-v-ukraini-oficijno-zareestruvali-4-867-106-pereselenciv.html> [accessed 26 October 2023].

3 Internal Displacement Monitoring Centre. Global internal displacement database, available at <https://www.internal-displacement.org/database/displacement-data> [accessed 26 October 2023].

4 International Displacement Monitoring Center. Global report on internal displacement. IDMC and Norwegian Refugee Council. 2016. Available at <http://www.internal-displacement.org/assets/publications/2016/2016-global-reportinternal-displacementIDMC.pdf> [accessed 26 October 2023].

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displaced persons within their jurisdiction"[5]. This Principle of Guiding Principles on internal displacement emphasized two above mentioned tremendously important elements for IDPs human rights protection: the national authority's responsibility to protect the population, including IDPs, without any discrimination according not only to national legislation but international human right standards and international humanitarian law as well as elaborate the specific protection and assistance measures for IDPs that correspond to their level of vulnerability, in order to ensure equal treatment of IDPs compared to persons who have not experienced forced displacement.[6] The vast majority of IDPs need housing or at least shelter, food, sanitation and hygienic supplies, clothes. In addition to the cover of the basic needs, IDPs need a broader governmental support, that include adequate housing (for medium and long-term perspective), social assistance and allowance, new jobs, access to health care, educational institutions, restoration of their documents, etc. Consequently, States must guarantee social support and realisation of social rights for IDPs as a main priority in this sphere.

Since 2014 different aspects of human rights of internally displaced persons have become the burning issue for Ukrainian academics and practitioners considering the necessity to adopt the legislation, elaborate mechanisms etc. that were absolutely new and unknown for Ukrainian legal science. Taking into account the experience of other European countries and their best practices, as well as International and European standards on internal displacement, a special law acts were adopted[7] and a range of publications, analytical reports, papers have been published, including ones on the topic of protection of IDPs social rights in Ukraine.[8] During eight years that passed since Russian aggression has begun,

5 UNHCR. Guiding Principles on internal displacement, 1998. Principle 3. Available at: <https://www.unhcr.org/43ce1cff2.pdf> [accessed 26 October 2023].

6 HRISTOVA, Hanna; TRALO, Yulia; BURYAKOVSKA, Kateryna. National case law on internal displacement: Application of Council of Europe standards, The Council of Europe project "Internal Displacement in Ukraine: Building Solutions, 2019; Global Protection Cluster (GPC), Handbook for the Protection of Internally Displaced Persons, June 2010, available at: <https://www.refworld.org/docid/4790cbc02.html> [accessed 15 October 2023]

7 The Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine" (2014), Law of Ukraine "On ensuring the rights and freedoms of IDPs" (2014), The Law of Ukraine "On the Peculiarities of State Policy to Ensure State Sovereignty of Ukraine in the Temporarily Occupied Territories in Donetsk and Luhansk Regions" (2018), Resolution of the Cabinet of Ministers of Ukraine No. 505 "On the provision of monthly targeted assistance to internally displaced persons to cover living expenses, including the payment of housing and communal services" (2014), Resolution of the Cabinet of Ministers of Ukraine No. 509 "On accounting of internally displaced persons" (2014), Resolution of the Cabinet of Ministers of Ukraine No. 637 "On the implementation of social payments to internally displaced persons" (2014) etc.

8 See, e.g. MOONEY, Erin; GERASYMENKO, Yevgen; MORKOVA, Olga; ZAYETS, Sergiy; CHRÁSKA, Filip; GIAKOUMOPOULOU, Evgenia; PARASKEVAS, Costas; VYKHREST,

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Ukraine managed to build the system of IDPs human rights protection. However, the scope of internal displacement in Ukraine after the beginning of full-scale war couldn't be compared to the internal displacement that Ukraine had before or European countries faced since WWII. Therefore, despite the research on IDPs issues made before the full-scale Russian aggression, all of them ought to be reanalyzed [9], including the analysis on social rights of IDPs in Ukraine made before the beginning of the war[10]. In this context, the analysis of current amendments and changes to national legislation and practice that have been made since the beginning of the war is increasingly important for understanding the key problems in the sphere of IDPs human rights protection in Ukraine in times of war and for elaboration the pathway for further development of social protection of IDPs.

2 Social rights of IDPs during the war

2.1 State of art in the sphere of protection of IDPs social rights before the war

Ukraine has come across internal displacement since annexation of Crimea by Russian Federation and the beginning of the armed conflict in eastern Ukraine in 2014 as it has already been mentioned. Considering total lack of legal frame-

Antonina; KHRYSTOVA, Ganna; KRISTOFOR, Theodora. Enhancing the National Legal Framework in Ukraine for Protecting the Human Rights of the Internally Displaced Persons / report within the Council of Europe Project "Strengthening the Human Rights Protection of Internally Displaced Persons in Ukraine"/, COE, June 2016, 146 p. Available at: <https://rm.coe.int/1680697cbc>; ZAYETS, Sergyi; LUNOVA, Olena;. FEDOROVA, Alla; KORKELIA, Konstantin; KHRYSTOVA, Ganna. Enhancing the National Legal Framework in Ukraine for Protecting the Human Rights of the Internally Displaced Persons. Revised Baseline Analysis. Kharkiv: Pravo, 2019, 203 p. Available at: <https://rm.coe.int/revised-baseline-analysis-2019/168099446a> [accessed 15 October 2023]; KRAKHMALOVA, Kateryna. Security, Social Policy, Agency and Work of the Courts in Relation to Ukrainian Internally Displaced Persons. Social Policy and Society, 2022, FirstView articles (published online by Cambridge University Press: 01 September 2022). Available at <https://www.cambridge.org/core/journals/social-policy-and-society/article/security-social-policy-agency-and-work-of-the-courts-in-relation-to-ukrainian-internally-displaced-persons/A0305DCC3A02E2317DEC1EEE28DA3A50#article> [accessed 26 October 2023].

9 See PARASKEVA, Costas. Protecting Internally Displaced Persons under the European Convention on Human Rights and other Council of Europe standards. Handbook. Council of Europe Project "Strengthening the Human Rights Protection of Internally Displaced Persons in Ukraine", May 2017; or Council of Europe: Zabezpechennya kompensatsiyi ta restytutsiyi, pravo na zhytlo ta sotsiaľnyy zakhyst VPO: porivnyaľnyy yevropeyskyy dosvid. 2020 Available at: <https://rm.coe.int/comparing-analysis-idps-ukr/1680a08f30> [accessed 26 October 2023]; also ZAYETS et al., supra; and KRAKHMALOVA, supra.

10 See VENHER, Volodymyr. The right to the social protection of citizens in conditions of the armed conflict in Eastern Ukraine: legislative challenges. Kyiv-Mohyla Law and Politics Journal, 2018, no. 4, pp. 99–118; FEDOROVA, Alla. European standards for the protection of social rights of internally displaced persons, in Social rights and their protection by the administrative court. Kyiv, 2020, pp. 269–273, available at <https://rm.coe.int/materials-socialrights-2020/1680a165f8> [accessed 10 November 2023].

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work and unreadiness for this situation in general, Ukraine has quickly enough, in comparison with other states that experienced the same problem, elaborated special legislation in the sphere of internal displacement, adopted the range of Laws of Ukraine, including the Law of Ukraine "On ensuring the rights and freedoms of internally displaced persons" and different governmental regulations focusing on the various aspects of internal displacement, including social protection of IDPs, started with bringing the definition of IDPs in national legislation in conformity with the Guiding Principles on Internal Displacement and European standards.[11]. The comprehensive system was elaborated concerning IDPs social rights protection that included specific acts on housing, special social assistance and continuation of receiving the general social payments, access to social services etc. At the same time a lot of problems had remained unsolved before the full-scale Russian aggression in 2022.

Considering the necessity to guarantee the right to adequate housing to IDPs and support them with relevant rent and housing services payments, in October 2014 Ukrainian government established the special allowance – special monthly targeted financial assistance for maintenance of adequate level of livelihood of IDPs to cover living expenses, including the payment of housing and services[12]. This benefit was transformed into the main social financial allowance for IDPs who met the prescribed criteria provided by the authority to IDPs and had been in force for years until 20 March 2022.

During this period, Ukraine established various criteria for receiving social and pension payments by IDPs, in particular, obliged them to be officially registered as internally displaced person, even to obtain the pension payments, to provide criteria for obtaining social payments and pension only in case of presence at the place of actual residence/stay of the IDP, as well as the authority's ability to terminate IDPs' social payments and IDP's certificate due to person's absence at the place of temporary' registration that was specified in the certificate and/or in case of return to uncontrolled territory, etc. This caused a situation of mass suspensions of payments, and, accordingly, a growing number of lawsuits. However, before the beginning of the war, mostly due to the active position of the Ukrainian courts, discriminatory provisions were canceled or changed. The significant importance had the judgment of the Supreme Court, adopted in 2018 in the leading case the termination of old-age pension payments of IDP due to non-confirmation of the actual place of residence. The Supreme

11 Executive Summary of Updated Baseline Analysis prepared by a group of experts of the Council of Europe Project "Internal Displacement in Ukraine: Building Solutions". K. Korkelia, A. Fedorova, S. Zayets, O. Lunova coordinated by G. Khrystova (Senior Project Officer), on the ground of Baseline Analysis "Enhancing the National Legal Framework in Ukraine for Protecting the Human Rights of Internally Displaced Persons", 2019.

12 Cabinet of Ministers Resolution on providing monthly targeted financial assistance to internally displaced persons to cover the living expenses, including for utilities and communal payments No. 505, adopted October 1, 2014.

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Court applied the European Convention on Human Rights, its Protocol 1 and case-law of the European Court of Human Rights (e.g., cases "Pichkur v. Ukraine"(2013), "Sukhanov and Ilchenko v. Ukraine" (2014)), European Social Charter and noted that the right to pension payments could not depend on conformation of the place of residence, this criteria established by the governmental Resolution limits the legally established right to receive a pension for IDP and should be applied.[13] In other case,[14] the Supreme Court applied legal position of the European Court of Human Rights formulated in cases Loizidou y v. Turkey, Cyprus v. Turkey, Mozer v. the Republic of Moldova and Russia and other cases of the European Court in the context of Namibian Exceptions,[15] establishing the need to include the period of work in the total length of service in accordance with certificates issued by state enterprises located at the temporarily occupied territory, taking into account that records in the work book and certificates contained in the pension file of the applicant confirmed the nature of such work. Therefore, in case of gaps, uncertainties of national legislation on IDP's human rights or even noncompliance of national legislation or practice with international standards, Ukrainian judges applied international standards, case-law of the European Court of Human Rights and gave the impulse for the development of national legislation. Moreover, even if the Ukrainian courts resolved the pension and social cases of IDPs positively, the process of their implementation would become more and more acute.

In addition to issues of social assistance, pension, one of the biggest challenges for every country that faced the problem of internal displacement is ensuring the IDPs' right to housing. A range of IDP-related legislative acts were adopted on housing issues that regulate IDPs' access to temporary, social housing; legislative amendments were made regarding the purpose of housing subsidies to households, members of were IDPs; a special act on the issue of providing housing for IDPs who defended the independence, sovereignty and territorial integrity of Ukraine was also adopted; special state housing programmes and governmental programs of funding, co-funding of buying housing by IDP, special strategies and mechanisms have been elaborated. Notwithstanding the mentioned governmental activities, the lack of fundings and the financial inability to cover the housing needs of IDPs led to stagnation of many of the launched national

13 Resolution of the Supreme Court (Ukraine) in the leading case on termination of pension payments to an internally displaced person, adopted May 3, 2018, case No. 805/402/1. Available at <https://reyestr.court.gov.ua/Review/73869341> [accessed 10 November 2023].

14 Resolution of the Supreme Court (Ukraine), July 17, 2019 in case No. 302/757/17-a. Available at <http://reyestr.court.gov.ua/Review/83070460> [accessed 10 November 2023].

15 International Court of Justice, Advisory Opinion concerning the legal consequences for States of the continued presence of South Africa in Namibia (South West Africa), notwithstanding Security Council resolution 276 (1970), adopted 21 June 1971. Available at <https://www.icj-cij.org/public/files/case-related/53/053-19710621-ADV-01-00-EN.pdf>. [accessed 10 November 2023].

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programmes and made them ineffective. In 2020, the right to housing for IDPs was an urgent topic for the special thematic report presented by Ukrainian Parliament Commissioner for Human Rights.[16] Only 7% of IDPs lived in housing that is provided by the state on 2020[17]. Thus, housing for IDPs was and remains one of the key problems for Ukraine.

In general, within 8 years of internal displacement, Ukraine managed to adopted sufficiently detailed legislative framework, formulated judicial practice, applying international standards and case-law of the European Court of Human Rights instead of national legislation (in particular in the sphere of pension and other social payments, relating elimination of the link between the registration of IDPs and receipt of social aid and benefits), applying Namibian principles according to the documents issues on temporary occupied territory in several spheres, as well as establishing the practice of restoration the work-related documents, registration of termination employment relations on temporary occupied territory etc.; the special mechanism of compensation of lost and damaged property was created, as well as protection of the right of IDPs to participate in elections, access to education, health care, especially for disabled IDPs. At the same time, variety of problems in social sphere remained topical before the full-scale Russian invasion, mostly due to the lack of financial resources.

2.2 Key changes in IDPs' social rights protection in Ukraine since the beginning of the full-scale Russian military invasion

Considering an enormous number of displaced persons during the first weeks of the Russian large-scale military aggression and the urgent need to provide these people with minimum financial resources for living, the special financial state benefit had to be established. Considering the targeted monthly financial benefit for IDPs that had been established in 2014, the new social benefit – the financial assistance for accommodation allowance was created on its basis after several weeks of the beginning of the war, in March (in amount of 2,000 UAH for all persons and 3,000 UAH[18] for persons with disabilities and children) according to the Governmental Resolution "Some issues of payment of accommodation allowance to internally displaced persons".[19] The new bigger benefit replaced the old one, saving all rights for it obtaining for former benefi-

16 Thematic report" Exercise of the Right of Internally Displaced Persons to Housing" by Ukrainian Parliament Commissioner for Human Rights, November 2020. Available at <https://rm.coe.int/thematic-report-housing-idps-ukr/1680a09512> [accessed 10 November 2023].

17 FEDOROVA, Alla. European standards for the protection of social rights of internally displaced persons, in Social rights and their protection by the administrative court. Kyiv, 2020, pp. 269–273, available at <https://rm.coe.int/materials-socialrights-2020/1680a165f8> [accessed 26 October 2023].

18 Circa 55 Euro and 85 Euro respectively.

19 Cabinet of Ministers Resolution on Some issues of payment of accommodation allowance to internally displaced persons, No. 332, adopted March 20, 2022.

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ciaries and providing this possibility for broad range of new IDPs almost with no criteria in first few months of the war except the fact of displacement.

Several types of one-time social payments have also been provided for support of different groups of war-affected people, such as those who were not able to continue their jobs, business due to the active hostilities of the war, people who have lived under Russian occupation [20] etc. However, certain types of such one-time social assistances for war-affected persons gained doubtful feedback and the results of their payments are discussible. For example, during the first month of the war, persons (employees, self-employed persons, individual entrepreneur and some other categories of persons) who were not able to continue their jobs in the territories where active hostilities were taking place and who managed to register at the official digital website "Diya" could apply for a one-time payment of circa 200 Euro.[21] However, the Government quickly canceled the mentioned program within less than a month, spending more than 0.5 billion Euro.[22] Unfortunately, only a third of people who had lodged the application received the payment on time; to ensure the further payments, the additional financial resources were added to the amendments to the State budget for 2022, many applicants have been waiting for this payment during the whole 2022,[23] afterwards, there were no relevant information on fulfilment of announced obligation by the Government and final payments for at least registered applications. Moreover, no special criteria were introduced for receiving such benefit. This example showed the State's strong wish to support people, national business and at the same time, the lack of general national strategy of such support, the types of social benefits, the list of criteria, the possible expenditures for social issues at the beginning of the war. A year later, in April 2023, Ukrainian government presented the State policy strategy on internal displacement for the period until 2025,[24] that prescribed main directions and goals of the national policy in this field.

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20 Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine, What financial assistance can residents of deoccupied territories receive. 6 October, 2022. Available at <https://minre.gov.ua/news/yaku-finansovu-dopomogu-mozhut-otrymaty-meshkanci-terytoriy-zvilnenyh-vid-okupantiv> [accessed 10 November 2023].

21 Cabinet of Ministers of Ukraine Resolution On amending the resolution of the Cabinet of Ministers of Ukraine dated December 9, 2021 No. 1272, adopted March 26, 2022 No. 367. Available at <https://www.kmu.gov.ua/npas/pro-vnesennya-zmini-do-postanovi-kabinetu-ministriv-ukrayini-vid-9-grudnya-2021-r-1272-367> [accessed 10 November 2023].

22 SMUSZ-KULESZA, Monika; FEDOROVA, Alla; MOYCA, Bogdan Social rights in Ukraine in times of war. Report on the needs assessment. Council of Europe Press, 2022, p. 41.

23 Not everyone has received the payment of UAH 6,500 from the state: what the Ministry of Economy says Available at: <https://minfin.com.ua/ua/2022/05/17/85568927/> [accessed 10 October 2023].

24 Cabinet of Ministers of Ukraine, CMU Order On the approval of the Strategy of the state policy on internal displacement for the period until 2025 and the approval of the operational plan of measures for its implementation in 2023-2025, of April 7, 2023, No. 312-p.

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Apart from the indicated benefits, no other special social assistance or allowance has been provided to IDPs or war-affected people by Ukrainian government because of war. However, the different kind of international organisations, charity funds started to propose additional to state social assistance special social in-kind and financial support almost in all regions of Ukraine, as well as various national nongovernmental and volunteer organisations. More than 200 humanitarian partners, including Ukrainian nongovernmental organisations, have been operating in all regions of Ukraine, providing millions with the humanitarian aid.[25] Some programs were launched together with Ukrainian government which provides international partners with the necessary information, including the numbers of vulnerable persons in different regions and verifies the data and information indicated in applications for financial assistance within the existing databases, e.g., in order to avoid the multiple applications by the same people for the same type of support in different UN agencies, organisations. It could be noted, that for the first time, international organisations are working in close coordination with national authorities and in formalized procedures through the conclusion of separate special memorandums and even the adoption of governmental resolutions.[26] For instance, UNICEF and the Ministry of Social Policy started the implementation of the multi-purpose program "Together", funded by the EU, the Italian government, the Swedish International Development Agency, the Central Emergency Response Fund and other donors. UNICEF as well several other UN agencies (UNHCR, UN World Food Program, International Organization for Migration) only proposes temporary financial assistance to war-affected people usually, for a short period of time no longer that several months. The same programs have been also proposed by different international organisations and all relevant information could be found at the official online Ukrainian web platform for documents and services "Diya". However, all mentioned aid has been provided one-time or on the temporary basic and not designed for long-time periods. Some of these programs have already been prolonged, providing people who had not applied for the financial support before with such a possibility. During 2022 within the program "Together" UNICEF supported more than a million persons. Unfortunately, acceptance of application was closed in August 2022 and for 2023 potential beneficiaries have been changed for people who live in the territory of eastern and southern Ukraine, in

Available at <https://zakon.rada.gov.ua/laws/show/312-2023-%D1%80#Text> [accessed 10 November 2023].

25 RABUS,V. Catherine.Addressing Internal Displacement in Ukraine. Researching Internal Displacement Working Paper No. 24, June 2022, p.16, available at: https://researchinginternaldisplacement.org/wp-content/uploads/2022/06/RID-WP_Rabus_ID-Ukraine_080622.pdf [accessed 10 November 2023].

26 SMUSZ-KULESZA, Monika; FEDOROVA, Alla; MOYCA, Bogdan Social rights in Ukraine in times of war. Report on the needs assessment. Council of Europe Press, 2022, pp. 23–25.

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the territories where the control of Ukrainian government has been restored and in communities located 30 km and closer to the contact line.

Describing establishment of new types of social support for new IDPs and war-affected persons as necessary steps, it is quite obvious, that the extreme importance has a continuation of providing people with all social benefits and assistance, that they were entitled to, under national legislation before the war as it was underlined by the authors of the Report on the needs assessment on social rights in Ukraine in times of war prepared within the Council of Europe project "Continued support to promoting social human rights in Ukraine".[27]

According to the special Resolution of the Cabinet of Ministers of Ukraine, all previously assigned payments to persons with disabilities were extended for the entire period of martial law and one month after its termination or cancellation in the event of deadlines for reviewing such payments. The next important governmental decision was made towards the prolongation on the validity period of certain medical documents[28], especially those that confirm the fact and the degree of disability of the person and had been issued before the war. The period of re-examination of a person with a disability could also be postponed, and the recognition of the fact of disability and the degree of the loss of working capacity is extended not only till the end of martial law, but also for a maximum six-month period after that. These actions were crucial for continuation of social support of people with disability including IDPs with disability, who became even more vulnerable due to the war.

Continuation of all social payments is aimed at supporting the functioning of the social system provided for by legislation and is an unconditional and necessary step that the state authority must ensure. At the same time, the war significantly worsens the economic and financial indicators of Ukraine and makes it difficult to fulfil the social obligations that were enshrined in the national legislation before the war and were introduced after its beginning. In particular, paying the accommodation assistance for all IDPs without putting forward any criteria other than the fact of displacement that were described above, became an unbearable burden for the state budget. The total public expenditure on such assistance was significantly increased in comparison with government spending on monthly targeted assistance, which was previously paid to IDPs, evidently, not only due to the amount of benefit, but due to the numbers of new IDPs. As of early November 2022, more than a billion Euro has been already spent only for IDPs' accommodation benefit with essential growth till the end of the year.[29]

27 Ibid., p.25.

28 Cabinet of Ministers of Ukraine Resolution On making changes to some resolutions of the Cabinet of Ministers of Ukraine regarding the period of re-examination of persons with disabilities and extending the validity period of certain medical documents under martial law, No 390, adopted March 30, 2022. Available at <https://zakon.rada.gov.ua/laws/show/390-2022-%D0%BF#Text> [accessed 10 November 2023].

29 PETROVSKYY, Dmytro. Vyplaty pereselentsyam: u Kabmini zrobyly vazhlyvu zayavu

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Despite the absolute necessity of that kind of unconditional financial support of all categories of internally displaced persons at the beginning of the war, even taking into account the inability of public system to verify the relevant information about millions of displaced people, today, it is crucially necessary to establish a transparent criteria and outline periods or duration of appropriate assistance. Several steps have been already made by the government and conditions for obtaining the assistance have been updated.[30] Therefore, since May 2022, only those internally displaced persons who have moved from the territory of territorial communities located in the area of military (combat) operations or under temporary occupation will be able to apply for assistance. Twelve amendments were adopted to the governmental Resolution about the accommodation assistance by the end of 2022,[31] including conduction of random verification on a risk-oriented basis of the actual place of residence/stay of the IDP. Nevertheless, the level of IDP's revenue, having a real property, in particular, in the region of displacement, bank deposits, other financial criteria (that were prescribed for the target allowance for IDPs before) are not taken into consideration. The granting of social assistance without the relevant criteria and analysis of person's need in line with the property status of IDPs as well as granting assistance without a time limit were indicated in the Strategy of the state policy on internal displacement as those that need to be changed.[32] Temporary protected person status abroad is also not taken into consideration for granting IDP status and social assistance. Experts of the Ukrainian Helsinki Human Rights Union explained that going abroad entails the termination of the IDP status and the corresponding payments, which can be renewed after the person's return to Ukraine.[33] They also stressed that this happens only when the relevant territorial state body of social protection receives information about the lack of grounds for the payment

(Payments to displaced persons: the Cabinet of Ministers made an important statement). UNIAN Information Agency, 8.11.2022. Available at <https://www.unian.ua/economics/finance/vnutrishni-pereselenci-v-kabmini-zrobili-vazhlivu-zayavu-pro-viplati-12039186.html>. [accessed 10 November 2023]. Till the end of 2022, 52, 8 billion Euro was enshrined for IDPs' accommodation allowance from the State budget: the Ministry of Social Policy of Ukraine. Available at <https://www.msp.gov.ua/timeline/Vnutrishno-peremishcheni-osobi.html> [accessed 10 November 2023].

30 Resolution of the Cabinet of Ministers of Ukraine dated April 16, 2022 No. 457 On the support of certain categories of the population that suffered in connection with the military aggression of the Russian Federation against Ukraine

31 See in details at <https://zakon.rada.gov.ua/laws/show/332-2022-%D0%BF#n54>.

32 Cabinet of Ministers of Ukraine, CMU Order On the approval of the Strategy of the state policy on internal displacement for the period until 2025 and the approval of the operational plan of measures for its implementation in 2023-2025, of April 7, 2023, No. 312-p. Available at <https://zakon.rada.gov.ua/laws/show/312-2023-%D1%80#Text> [accessed 10 November 2023].

33 Ukrainian Helsinki Human Rights Union, State assistance to IDPs and refugees – what should be paid attention to. Available at <https://helsinki.org.ua/articles/derzhavna-dopomoha-vpo-ta-bizhentsiam-na-shcho-treba-zvernuty-uvahu/> [accessed 10 November 2023].

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of benefits to a person, such as leaving the territory of Ukraine. However, this approach cannot be fully accepted, because the mere fact of crossing the state border doesn't include information about neither the duration of staying abroad nor the purpose, including the obtainment of the temporary protection status.

Some new issues have appeared in pension sphere after the beginning of the war that was one of the most problematic for some categories of people affected by Russian aggression before the full-scale invasion. The most common issues have been refusals of state bodies to take into account documents confirming the duration of working experience or service, preferential length of service and other documents issued in the temporary occupied territory of Ukraine, as well as the termination of pension payments because of the cancellation of the IDP's certificate.[34] Despite the simplification of obtaining pension by IDPs and judicial practice on this issue, not awarding a pension to Ukrainians who moved from Crimea and have been receiving pensions there and/or whose pension cases remained in Crimea, is an unresolved problem due to the impossibility of receiving the pension case from Russian authorities in Crimea. On August 12, 2022, a coalition of Ukrainian non-governmental organisations dealing with the protection of the rights of war-affected people addressed an open letter to the Ministry of Social Policy and the Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine with demands for immediate measures and amendments to the legislation of Ukraine for solving the problem.[35] The Ministry of Social Policy mentioned the Agreement on the guarantee of the rights of citizens of the Commonwealth of independent states in the field of pension insurance dated March 13, 1992, to which both Ukraine and Russia are parties. Impossibility to obtain information and pension cases from the Russian pension authorities due to the breakdown of diplomatic relations was underlined in the Ministry's reply. It was also noted that the mechanism for receiving pensions for the mentioned category of people is being developed.[36] According the Operational Plan for the implementation of the National Strategy on internal displacement, adopted in 2023, "ensuring by the Ministry of social policy of Ukraine the functioning of the mechanism for the appointment and payment of pensions to citizens of Ukraine who moved from the temporarily occupied territory of Crimea and the city of Sevastopol, without the need to request a pension case from the authorized bodies of the Russian Federation" is planned in 2023.[37]

34 See Judgement of the Supreme Court, case No. 240/4937/18 adopted May 3, 2018.

35 Appeal of the Coalition of Organisations and "Crimean human rights group" regarding the payment of pensions to pensioners from Crimea. Residents of Crimea should not be limited in their right to receive a Ukrainian pension – an official appeal. Available at <https://www.donbasssos.org/pensii-krym-zvernennia/> [accessed 10 November 2023].

36 The Letter of the Ministry of social policy of Ukraine to "Crimean human rights group", 2219/0/196-22, dated 25.08.2022

37 Operational plan of measures for the implementation in 2023–2025 of the State Policy Strategy on Internal Displacement for the period until 2025. Approved by the Order of the Cabinet of Ministers of Ukraine, April 7, 2023 № 312-p. Available at <https://zakon.rada.

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However, at the middle of 2023 the type of appropriate mechanism of pension calculation for this group of IDPs remains ambiguous.

Another important aspect of IDPs' social rights is ensuring of appropriate housing. This was one of the biggest problems in the sphere of IDPs human rights protection. At the same time, the situation with the providing of an adequate housing for IDPs in Ukraine can get worse, bearing in mind the numbers of IDPs and damages of housing stock, attempts to destruct the entire energy system in winter 2022–2023, detonation of Kahovska Hydroelectric Power Plant and other atrocities made by Russian armed force. Millions of people were left without housing, as of July 2 Russia had destroyed more than 15 million square meters of housing, more than 800,000 people were left without housing or their housing was in need of repair.[38] In cases where housing is destroyed or damaged or when persons have moved from the territories of active hostilities or territories occupied by Russia, persons have the right to get temporary housing. The problems of its realisation have been already analysed, considering even the lack of available accommodation until February 24. As a crisis response, local authorities, volunteers, humanitarian and charity organisations have organised temporary shelters, e.g., in hotels, hostels, sanatoriums, sport centers, stadiums, kindergartens, etc. More than a million persons have been provided with places for living and at the mid of November there were 160 000 available places according to the information on the official site of the Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine.[39] However, the information was not updated by the end of the year and, obviously, this amount could not be sufficient according to current needs.

Ukrainian authorities try to encourage the owners to propose the housing to IDPs and stimulate rental marker by developing a compensation mechanism for landlords in case of temporary accommodation of IDPs.[40] Nevertheless, as of the end of 2022, the situation with the housing rental market was consistently tense and unsatisfactory, leading to double increase in the amount of compensation to 900 UAH (about 25 Euro) per month per person, which still was insufficient given the demand and rising prices in the rental market. In addition to compensation program, the accessibility to a general mechanism for covering

gov.ua/laws/show/312-2023-%D1%80#Text>.

38 U Radi rozpovily, skiľky ukrayintsiv zalyshyly bez zhytla rosiyski ahresory. 2 lypnya. Slovo i dilo. Analitychnyy portal. Available at https://www.slovoidilo.ua/2022/07/02/novyna/suspilstvo/radi-rozpovily-skilky-ukrayincziv-zalyshyly-zhytla-rosijski-ahresory [accessed 10 November 2023].

39 Number of free places for accommodation for IDPs. Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine. 10 November. Available at https://minre.gov.ua/news/kilkist-vilnyh-misc-dlya-rozmishchennya-vpo. [accessed 10 November 2023].

40 Resolution of the Cabinet of Ministers of Ukraine "On approval of the procedure for reimbursement of expenses for temporary accommodation of internally displaced persons who moved during martial law" No. 333, March 19, 2022. Available at: <https://zakon.rada.gov.ua/laws/show/333-2022-%D0%BF#Text> [accessed 18 September 2023].

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the housing and communal services payment under the State Housing Subsidy Program was simplified for IDPs.

The Ukrainian government has also launched programs of preferential mortgage loans for IDPs even before the beginning of the war and extended it in 2022. Mortgage loan mechanism is able to solve a significant part of the existing problem, at least for working IDPs families in Ukraine. However, such a loan for 20 years or 30 years (since the middle of 2022) is offered at 7 and 3 percent per annum, which is an extremely profitable offer in Ukraine. At the same time, it is necessary to underline the fact that 2–3% mortgage interest rates or even lower apply in many EU countries at a general level, and not on preferential terms. In addition, less than 600 such loans were granted for IDPs at this time, and 336 loans – in 2022.[41] Unfortunately, such statistics cannot be perceived as an effective governmental mechanism for solving the housing issue of IDPs, but can serve as a basis for creating affordable mortgage lending, at least for internally displaced persons.

3 Key challenges in social sphere and IDPs protection in times of war

In Ukraine, IDPs are entitled to all social rights as they are determined by the Constitution of Ukraine without any discrimination on the ground of displacement as it was emphasised by the Guiding principles on internal displacement, Council of Europe and other international standards. Within the broad list of human rights, the Constitution of Ukraine proclaims the right to housing, decent standard of living, medical care, social protection, which includes the right to support in case of total, partial or temporary loss of working capacity or loss of a breadwinner, unemployment due to circumstances beyond the control of individual, in old age, as well as in other cases established by law at a level not lower than the minimum living standard established by law for social payments and assistance, which is the main source of livelihood.[42] In addition to the general protection, IDPs must be entitled to special social assistance and support.

Therefore, as it was already stated, the maintenance of proper functioning of the existing social protection system and providing support for millions of IDPs, remains one of the main challenges for Ukraine in the conditions of an extremely demanding economic situation and total lack of relevant state finance. In this context, two key tasks of Ukrainian social protection system are straightforward:

41 Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine, in 2022, 336 preferential loans for the purchase of apartments were issued to internally displaced persons. Available at: https://minre.gov.ua/news/u-2022-roci-vnutrishnim-pereselency-am-bulo-vydano-336-pilgovyh-kredytiv-na-prydbannya-kvartyr [accessed 18 September 2023].

42 See Constitution of Ukraine, adopted at the Fifth Session of the Verkhovna Rada of Ukraine on June 28, 1996 with amendments. No. 254к/96-BP. Articles 46–49 Available at <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80?lang=en#Text> [accessed 18 September 2023].

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maintaining the social the social protection system at the level that had been enshrined in the national legislation before the beginning of the war, including the stability of providing social payments and pensions, as well as providing and developing different new types of social support to internally displaced persons as well as to broad range of war-affected people.[43]

While the first key challenge of maintaining the social security system on "the before the war" level is impossible without changes due to the lack of resources and appropriate balance at the State budget, the second key challenge needs not only fund but also further legislative development, elaboration the necessary protection mechanisms and clear national roadmap.

The State policy strategy on internal displacement for the period until 2025 underlined that full-scale Russian aggression presented new challenges to the citizens and the state as a whole, the necessity to create effective mechanisms for covering basic human needs and ensuring access to social services, strengthening the ability of communities to facilitate the adaptation of IDPs, rational use of community resources and budgets at all levels.[44] One of the main problems identified in the Strategy is the destruction of the housing sector and the infrastructure of settlements. Moreover, it was also noted that for a significant number of internally displaced 9 years ago persons, the issues of accommodation and provision of housing, finding a permanent source of income remain relevant. Such statements emphasized the problem in the sphere of housing for IDPs. Recognizing housing as the main need of IDPs, the Strategy emphasized that "the lack of a sufficient number of residential or other premises suitable for temporary accommodation of IDPs leads to the fact that such persons decide to go abroad or prematurely return to the place they left residence".[45]

Another problem in the sphere of social benefits and pension was underlined in the Strategy, adopted in 2023. It was stated that "current mechanisms for providing IDPs with social and pension (in particular, those who moved before February 24, 2022) do not correspond to general approaches to their provision to other categories of citizens of Ukraine, create an additional burden on IDPs and the bodies of the social protection system, as well as lead to a long wait for the appointment and payment of assistance". It means that despite the understandment of importance of guaranteeing mentioned basic social rights to IDPs, Ukraine has limited resources and needs further development of legislation and practice.

43 SMUSZ-KULESZA, Monika; FEDOROVA, Alla; MOYCA, Bogdan Social rights in Ukraine in times of war. Report on the needs assessment. Council of Europe Press, 2022, p 53.

44 Cabinet of Ministers of Ukraine, CMU Order On the approval of the Strategy of the state policy on internal displacement for the period until 2025 and the approval of the operational plan of measures for its implementation in 2023–2025, of April 7, 2023, No. 312-p. Available at <https://zakon.rada.gov.ua/laws/show/312-2023-%D1%80#Text> [accessed 10 November 2023].

45 Ibid.

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The growing trend of enlargement of the number of temporary protected persons in EU countries shows that all governmental activities are not sufficient for preventing people from leaving Ukraine. The unemployment rate in July reached the 35 % and the specialists noted that this figure looks better because of mobilisation and leaving the territory of Ukraine; the salaries would decrease in real measure by 27%.[46]

Under the World Bank survey, by the end of 2022, 25% of Ukraine's population will live in poverty, compared to just over 2% before the war, and by the end of 2023, this figure could increase to 55%.[47] The figure is debatable, but it is obvious that the problem of combating poverty will not be solved next year, especially before the end of the war, but today Ukraine declares that maximum efforts will be taken for social support of the population, especially the vulnerable groups of people: people with disabilities, elderly persons, children. However, for this purpose Ukraine needs sufficient financial support, otherwise, as stressed by Arup Banerji, World Bank regional country director for Eastern Europe, Ukraine would have two options: to print money or further reduce social expenses.[48] By agreeing with this statement, the third option for Ukraine that can be added is the substantial redistribution of available funds aims to support vulnerable persons mostly on individual needs basics that lead to crucial reforms of the national social legislation that could be entered even during the wartime.

4 Conclusions

According to the Guiding Principles on internal displacement, two components of State responsibility that enshrined in the Principle 3 – people, displaced within their home country, have the right to full protection of their rights, which is guaranteed to the population as a whole and, at the same time, displacement leads to specific additional vulnerability of persons affected by it – are fully recognized by Ukraine. To this end, realizing that displaced persons are not deprived of their own rights, Ukraine as any other states in the situation of internal displacement, is obliged to provide special protection and assistance measures for IDPs that correspond to their level of vulnerability, in order to ensure equal treatment of IDPs compared to persons who were not forcibly displaced. However, it is obvious that in case of full-scale war and as a consequence, massive financial crises and instability the State could not be able to guarantee all set of social rights for millions of IDPs by itself without international support and assistance.

46 National Bank of Ukraine. Available at https://bank.gov.ua/admin_uploads/article/IR_2022-Q3.pdf?v=4 [accessed 10 November 2023].

47 SHALAL, Andrea. World Bank says Ukraine has tenfold increase in poverty due to war. Reuters, 15 October 2022. Available at https://www.reuters.com/world/europe/world-bank-says-ukraine-has-tenfold-increase-poverty-due-war-2022-10-15/ [accessed 10 November 2023].

48 Ibid.

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Fully understanding its responsibility to take comprehensive measures aimed at establishment the legislation, introduction effective mechanisms for the protection of the IDPs rights, Ukraine have already elaborated the national legislative framework on the issue during 8 years of internal displacement in the country since 2014. However, the scope and nature of problems changed dramatically after full scale Russian military invasion in February 2022. Ukraine faced two main challenges in the sphere of IDPs' social rights protection are to:

- millions of new displaced persons needed their basic social needs to be covered, including housing or at least shelter for realisation of which special benefits, programs were launched,
- the social system had to continue its proper functioning for all groups of people, taking into account that lives of even more people depend on well-timed paid social benefits or provided social services.

To our great regret, both challenges could not be overcome due to the lack of budget balance of state's obligations in social sphere and available sources that was directly indicated in the European Court of Human Rights case "Burmych and others v. Ukraine" the execution of which remains unsolved. For better realisation of the second goal, the further changes of national legislation should be provided with not only new social benefits and mechanisms, but also new fair criteria of their obtainment that lead to changes of social model and social legislation in Ukraine. Moreover, in the context of social protection, the clear perspectives for essential improvement of social protection of IDPs in Ukraine and growth of the social payments could hardly be expected until, at least, the end of the war.

For overcoming the challenges risen before Ukraine due to unprecedented full-scale Russia's military invasion, Ukraine would not be able to cover all social needs of at least 5–8 million IDPs and solve its social issues on its own, in particular, ensuring the appropriate housing and provide financial support of IDPs etc. without active involvement of international organisations and international partners, donors for financial, technical and other aspects as well as national private sector and business. This issue has been already becoming particularly urgent and would remain urgent acute for rather long periods after the war. Thus, despite the introduction of special financial assistance for IDPs even in situation of the not having enough fundings, and efforts to maintain the stability of the current social protection system, all social payment that an IDP or an ordinary person will be able to obtain could not be enough for the maintenance of decent standards of living of the majority of population, including the unresolved housing problem for millions of IDPs.

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