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16. On education: Law of Ukraine of September 5, 2017. № 2145 – VIII. URL: <https://zakon.rada.gov.ua/laws/show/2145-19> (access date: 14.09.2020).

17. Melnichuk O. F. Legal means to combat bullying. Scientific Bulletin of Uzhhorod National University. Law series. 2019. Issue. 55. T. 2. P. 44–47.

18. Prots O. E., Romankiv R. V. counteraction to bowling: Legal Aspects of protection of children from violence. Scientific Bulletin of Uzhhorod National University. Law series. 2020. Issue. 60. P. 127–130.

19. Yanishevskaya K., Tymoshenko O. Some problems of combating bullying in Ukraine and ways to solve them. Legal short stories. 2018. № 4. P. 270–275.

20. Lalak N. Penyak V. School bowling as an urgent pedagogical problem of today. International scientific journal "Education and Science". 2019. Issue 1 (26). - P. 132-136.

21. Plutitska K. Approaches to understanding bullying as a form of school violence. Scientific Bulletin of the International Humanities University. Jurisprudence series. 2017. № 2. V. 2. P. 78–80.

22. Gradova Y., Artamanova M. Regulatory regulation of bowling: national and foreign experience. Bulletin of V. N. Karazin Kharkiv National University. RIGHT series. Issue 28. 2019. P. 33-41.

23. Large explanatory dictionary of the modern Ukrainian language; structure. and heads. ed. W. Busel. K.; Irpen: VTF "Perun", 2009. 1736 p.

24. Sobol E. Y., Korniychenko A. A. Bullying in the educational environment - determinants and forms. Scientific notes of the Central Ukrainian State Pedagogical University named after Volodymyr Vynnychenko. Series: Right. 2020. Issue 8. - P. 4-9.

25. Constitution of Ukraine of June 28, 1996 (as amended) URL: <http://zakon1.rada.gov.ua/laws/show/254k/96-vr>. (date of appeal 15.09.2020).

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FEATURES OF LEGAL STATUS OF REFUGEES IN INTERNATIONAL LAW

Summary.

In the article the author considers the problem of the international legal status of refugees, the increase in the number of migrational processes in the world. Particular attention is paid to the system of international institutions for the protection of refugee rights. An important role is played by international regulations governing these issues.

Key words: *refugee, the legal status of refugee, control measures of external migration.*

Formulation of the problem. Due to the constant development of socio-political relations, it would seem that problems related to the institution of the legal status of refugees should not arise, but nowadays the institution is developing rapidly. That is why the leaders of the countries and scientists face an important problem, which is to strengthen the legal regulation of the protection of the rights of refugees not only in theoretical but also in practical terms.

The problems of international migration are largely due to current trends in the development of the institution of protection of refugee rights. Every year there are more and more people in the world who move to other countries against their will. This phenomenon is more connected with the conduct of hostilities on the territory of the country, the increase in the number of various terrorist acts. It is the unstable economy and the lack of adequate protection of citizens are the reasons why people are forced to migrate to foreign countries in search of protection for themselves and their families. After all, no one wants to be a victim of violence, various persecutions.

Analysis of recent research and publications.

Theoretical and practical issues of refugees in Ukraine, in particular the definition of their legal status, were engaged by in national scientists, namely: O. I. Bezpalo, O. I. Kotlyar, A. L. Svyashchuk, N. V. Chenshova, as well as foreign: J. Vernant, A. Grail-Madsen, G. S. Goodwin-Hill, R. Jennings.

The purpose of this article is to study the problem of international migration. Due to the increase in the number of refugees, this institute needs more detailed studying. Namely, it is the legislation on the protection of the rights of refugees, granting them asylum and, most importantly, the real action of these norms in practice. Therefore, it is necessary to study the main problems of legal regulation of refugee status, to compare the norms of Ukrainian legislation on the regulation of this institution with the norms of modern international law, as well as to propose improvements in legislation on refugee rights.

Presenting main material. World and home conflicts have existed constantly. Even with the beginning of the development of state processes, the formation of the first borders, a large number of people were forced

to leave the territory of their permanent residence. That is why the special status and attitude to these people has long been known to mankind. After all, as is known from various historical chronicles, people, fleeing violence and threats, fled to other countries, seeking protection there.

But despite the fact that IDPs were known to the world before our era, yet this problem began to gain importance only in the mid-nineteenth century. Although it reached its peak in the twentieth century, the revolutions in the world, the First and Second World Wars, the completion of the existing borders in most countries of the world, contributed to the significant development of the refugee institution.

The first step towards the international legal regulation of the concept of "refugees" and the definition of their status was taken in the 1920s by the League of Nations. In 1921, the first High Commissioner for Refugees, Fritjof Nansen, implemented the idea of developing internationally recognized travel documents for refugees, later called the "Nansen Passport" [18].

An important contribution to the formation of a system of international legal measures aimed at determining the legal status of refugees at the official level were three acts adopted on June 30, 1928 at the Conference on Refugees in Geneva: the legal status of Russian and Armenian refugees [15]; on the extension to other categories of refugees of certain measures taken in favor of Armenian and other refugees [16]; on the functions of the representatives of the High Commissioner for Refugees. Thanks to them, the League of Nations extended the scope of the High Commissioner's mandate to various groups of refugees, namely: in 1924 - to Armenians, in 1928 - to Turks, Kurds, assimilated Syrians and Assyro-Chaldean refugees, and later, under the 1935 agreement, - on the Saar refugees [18].

The legal framework for the protection of refugee rights at the international level was developed and approved gradually. An important step in this process was the adoption on October 23, 1933 of the Convention Relating to the International Status of Refugees. The Convention for the first time proclaimed the principle of non-refoulement is the refusal to forcibly return a refugee to a place where he is in danger [18].

On July 4, 1936, the League of Nations adopted the Interim Agreement on the Status of Refugees Arriving from Germany, [14] which was later enshrined in the Convention of February 10, 1938 [5] and its Protocol of September 14, 1938. [2]. These documents covered: persons who have or had German citizenship and no other citizenship in respect of whom it has been proved that they do not enjoy the legal or de facto protection of the German Government; stateless persons who are not covered by previous conventions or agreements who left the territory of Germany after settling there and in respect of whom it has been proved that they do not enjoy, legally or in fact, the protection of the German government.

Thus, for almost 20 years, the first legal acts were created, which regulated issues related to the legal status of refugees. First of all, it was determined which persons were the subject to refugee status, the conditions that persons must meet in order to be granted the

legal status as refugees were set. The above-mentioned acts were the basis for the initial development of the international legal status of refugees, and later a kind of "foundation" for the creation of new legislation.

The new wave of refugees that swept the world during and after World War II prompted the world community to improve the international legal system for the protection of refugee rights and increase its practical significance.

Establishment of the United Nations Organisation in 1945 became a kind of an impetus to the final formation of the international legal status of refugees.

In 1951, by Resolution 319 (IV) of December 3, 1949, the UN General Assembly established the Office of the UN High Commissioner for Refugees for a period of 3 years, and defined its functions. In addition, the General Assembly decided to convene a conference of authorized representatives of UN member states to develop and sign a universal convention on refugee status [18]. The convention was to enshrine the concept of "refugee", to systematize the rules of international law concerning refugees, to determine their status, as well as to define the obligations and responsibilities of the countries of origin of refugees, and to contain rules determining the criteria for treatment and living conditions for refugees.

The UN Commission on Human Rights has prepared a draft Convention relating to the Status of Refugees [4]. The Convention was revised and adopted on July, 28 1951 by the Conference of Plenipotentiaries on the Legal Status of Refugees and Stateless Persons, convened in Geneva in accordance with General Assembly Resolution 429 (V) of December, 14 1950. The Convention relating to the Status of Refugees is a fundamental document of current international refugee law. The 1967 Convention and Protocol Relating to the Status of Refugees disclose the meaning of the term "refugee", define the conditions under which a refugee loses his or her status, and the categories of persons are not covered by the Convention. The Convention also prohibits the deportation and forcible return of persons who have been granted refugee status. It establishes possible legal regimes for refugees, including the rights and obligations of refugees vis-à-vis asylum states [4].

Thus, the creation of legislation regulating the protection of refugee rights can be divided into three stages. The first stage includes three acts: "On the legal status of Russian and Armenian refugees", "On the extension to other categories of refugees of certain measures taken in favor of Armenian and other refugees" and "On the functions of representatives of the High Commissioner for Refugees".

The second stage was characterized by the adoption on October 23, 1933 of the Convention Relating to the International Status of Refugees, which contained a provision refusing to return a refugee to the territory of the country of which he is a citizen. Also important was the July 4, 1936, adoption by the League of Nations of the Interim Agreement on the Status of Refugees Arriving from Germany, which was later consolidated in the Convention of February 10, 1938.

The third stage was marked by the consolidation of regulations, which are still relevant, we mean the

adoption of the UN on July 28, 1951, the Convention relating to the Status of Refugees. But despite such a significant contribution to the legislation of the international legal status of a refugee, this concept still needs to be interpreted in more detail.

According to the Universal Declaration of Human Rights, all people have the right to recognition of their dignity and certain inalienable rights, which are "the basis of freedom, justice and universal peace". Article 13 of the Universal Declaration of Human Rights states: "Everyone has the right to freedom of movement and residence within the borders of each State. Everyone has the right to leave any country, including his own, and to return to his country" [3].

Thus, the Universal Declaration of Human Rights consolidates the fundamental rights that apply to all people. The article of the Declaration on the Right to Free Movement formed the basis of subsequent international agreements regulating the legal status of refugees.

The next important piece of legislation was the creation of the Convention relating to the Status of Refugees. According to the Convention relating to the Status of Refugees (1951), a refugee is a person who, due to well-founded fears of persecution on the grounds of race, religion, nationality, social group or political opinion, is outside the country of his or her nationality and not being able to enjoy the protection of that country or unwilling to enjoy such protection due to such fears; or, not having a certain nationality and being outside the country of his former residence as a result of such events, cannot or does not wish to return to it as a result of such fears [4].

The Convention relating to the Status of Refugees (1951) became a universal and basic international legal act, which consolidates the definition of "refugee" in international law. Subsequently, the fixed definition of the term "refugee" was adopted into the national legislation of most states, including Ukraine. This Convention has become important because, for the first time, it focuses not on a group of people at risk of persecution on ethnic grounds (as it was before the adoption of the Convention), but on a specific person - refugees.

The Protocol on the Status of Refugees (1966) detailed the concept of "refugee" on a temporal basis. The need to adopt this document was due to the fact that the Convention relating to the Status of Refugees (1951) had two restrictions on the definition of "refugee", which created significant obstacles to solving the problems of refugees, ensuring their rights and freedoms at the appropriate level [4]:

- temporary (the right to be considered a refugee did not apply to persons who became such as a result of events that occurred after January 1, 1951);
- geographical (these events mean either events that took place in Europe before January 1, 1951 or events that took place in Europe or elsewhere before January 1, 1951).

UN Declaration on Territorial Asylum (1967), which consolidates the right of every person, including refugees, to asylum and use of asylum. There is no right to asylum and a person (refugee) in respect of whom there are reasonable suspicions that he has committed a

crime against peace, a war crime or a crime against humanity [1].

The next important document on the regulation of the legal status of refugees was the European Agreement on the Transfer of Responsibility for Refugees (1980), which was adopted in order to create legal grounds for refugees to stay in other countries (including the possibility of one state transferring responsibility for refugees) [1].

In Ukraine, the concept of "refugee" is consolidated in the Law "On Refugees and Persons in Need of Additional or Temporary Protection" of 08.07.2011. A refugee is a person who is not a citizen of Ukraine and due to reasonable fears of being persecuted on the grounds of race, religion, nationality, citizenship (citizenship), belonging to a certain social group or political beliefs is outside the country of his citizenship and cannot enjoy protection of this country either does not want to enjoy this protection due to such fears, or, not having citizenship (citizenship) and being outside the country of its previous permanent residence, cannot or does not want to return to it due to these fears [7].

Also important normative legal acts are: the Convention on the Rights of the Child (1989) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984); Convention on the Elimination of All Forms of Discrimination against Women (1979), International Covenant on Civil and Political Rights (1966), International Covenant on Economic, Social and Cultural Rights (1966), International Convention on the Elimination of All Forms of Racial Discrimination (1965).

Thus, at the legislative level there are many documents that ensure the granting of refugee status, protection of his rights. All the above documents became the basis for further creation of conventions, pacts, laws not only at the international level, but also at the national level. However, this legislation already needs to be improved, namely with regard to the mechanism for ensuring the legal status of refugees, which will include the structure and powers of officials who will protect the rights of refugees.

The right to asylum is granted to any person who has very real fears of being persecuted on the grounds of race, religion, nationality, membership of a particular social group or political opinion. The granting of asylum is inherently a peaceful and humane act and is not considered unfriendly to any state. The right to asylum granted by a state in the exercise of its sovereignty to persons who have a reason to invoke Art. 14 of the Universal Declaration of Human Rights, including those who fight against colonialism, must be respected by all other states [3].

There are also territorial and diplomatic asylums in international law. The first means giving any person (persons) the opportunity to take refuge from political persecution in the territory of a particular state, ie a person in his state may be persecuted, which in essence does not contradict the norms of international and national law. The second is the provision by the state of the same opportunity, but within a diplomatic mission,

consular post or on a foreign warship located in the territory of another state. However, not all countries in the world recognize diplomatic asylum.

International law proceeds from the fact that the assessment of the grounds for granting asylum is a matter for the state granting asylum, it is stated in paragraph 3 of Art. 1 of the UN General Assembly Declaration on Territorial Asylum of 1967. Therefore, international law contains general principles of cooperation between states in the field of asylum. These principles are stated in a number of international documents. First of all, the principle of the human right to asylum is recognized [13, p. 141].

The Universal Declaration of Human Rights of 1948 states that everyone has the right to seek and to enjoy in other countries asylum from persecution. The declaration is based on the fact that such persecution is based on political motives. In this regard, the Declaration emphasizes that the right to asylum cannot be exercised in the case of persecution that actually concerns the commission of a non-political crime or an act contrary to the purposes and principles of the United Nations. Given the above, we can formulate a number of principles relating to asylum, consolidated in international instruments [13, p. 141]:

1) each state, based on its sovereignty, has the right to grant asylum;

2) asylum is a peaceful and humane act and therefore cannot be considered by other states as an unfriendly act. Asylum granted by the state to certain persons must be respected by all other states;

3) everyone has the right to seek and to enjoy in other countries asylum from persecution;

4) the state itself assesses the grounds for granting asylum. As a rule, asylum is granted to persons persecuted at home for political, national, racial, religious and other reasons;

5) the state that granted the asylum must not allow the persons who received it to engage in activities that are contrary to the goals and principles of the United Nations;

6) The situation of asylum seekers without prejudice to the sovereignty of the asylum State and the purposes and principles of the United Nations should be the concern of the international community. In particular, this applies to the protection of human rights and fundamental freedoms.

Based on the above principles, it can be argued that territorial asylum is provided to persons in need of protection due to armed conflicts, persecution, natural disasters. It is up to each state to assess whether an individual needs to be granted asylum, ie whether a person has committed various crimes against humanity and poses no threat to it. And also whether its activity does not contradict UN principles. It is also important that a person has the right to leave the borders of one country and seek protection in another.

These principles are inherent in the legislation of Ukraine. In the context of determining the relationship between the institution of asylum and refugee status, it is necessary to refer to the Law of Ukraine "On Refugees and Persons in Need of Additional or Temporary Protection" of July 8, 2011. are as follows: from the title

of the Law it becomes clear that it has not become a comprehensive act on the settlement of asylum, it covers, in addition to refugee status, only the legal relationship of two types of protection - temporary and additional. The second conclusion from the content of this Law is that the legislator does not consider temporary and additional protection as a shelter and distinguishes these categories from the legal status of a refugee. At the same time, the legislator does not make any connections and dependencies between the terms asylum and protection. In the text of the Law, the term asylum is mentioned three times and exclusively in relation to its receipt in other (third) states. Thus, the mentioned Law did not clarify the issue of the ratio of such categories as asylum and refugee status in Ukraine [13, p. 142].

Thus, the legislator is obliged to improve the national legislation on granting territorial asylum. After all, based on the events in the world that have taken place in recent years, we can say that this problem has become very important. As there is no clear legal act regulating the mechanism of granting territorial asylum, it is also necessary to improve the system of bodies that will provide asylum, and in the future refugee status.

As mentioned earlier, the issue of the legal status of refugees is not sufficiently studied by scholars. However, from the beginning of the institute itself, there were different views on its interpretation. As well as the definition of the persons who were the subject to the concept of "refugee" and ways to provide them with asylum.

According to M. M. Siranta, it is necessary to apply a broad approach to the existence of two main pre-conditions under which a person fell under the category of "refugee": first, the person must be outside the country of his citizenship or permanent residence; secondly, such a person should not enjoy (by law or in fact) the protection of that country [18].

According to OA Goncharenko, "the legal status of refugees should be understood as a set of their subjective rights and responsibilities. Without going into the essence of this term, it is worth noting one of the important factors, which comes down to the fact that the legal status of a refugee, like any legal status of a person, should be based on specific legal guidelines that determine its essence and content" [18].

Some scholars have tried to compare and find some differences between the concepts of refugee and internally displaced person. An example of this are the views of the candidate of legal and historical sciences Yu. I. Rymarenko, of course, despite all the differences, refugees and internally displaced persons have much in common. After all, they have similar grounds for leaving their place of permanent residence, the need for protection, they are subject to similar measures of such protection, the basis of which is the prohibition of deportation or return to the state where they are in danger. These persons are also guaranteed the observance of their rights and the opportunity to integrate into the society of the country of asylum [18].

According to O. I. Kotlyar, a refugee is a person who, for well-founded reasons, becomes a victim of

persecution on the grounds of race, religion, citizenship, language, belonging to a certain social group, political beliefs is outside the country of his citizenship or origin and cannot enjoy the protection of that country or does not wish to enjoy such protection due to such reasons as a result of external aggression, occupation, ethnic cleansings, mass riots in the territory of the country of his citizenship or origin; or, not having a certain nationality and being outside the country of origin as a result of such events, cannot or does not wish to return to it for such reasons [6].

It is possible to agree completely with the definition which was offered by the candidate of legal sciences P. V. Smorodko, namely, an internally displaced person is a person who is forced to move from his or her place of permanent residence within his or her country due to armed conflict, internal disorder, systematic human rights violations, and natural disasters. The application of such a definition, at present, is especially relevant for citizens of Ukraine who are forced to move to the mainland of Ukraine due to the armed conflict with the Russian Federation, which arose in the Donetsk and Luhansk regions [17].

Thus, analyzing the views of scholars on determining the legal status of a refugee, in our opinion, the most meaningful definition was proposed by Olga Ivanovna Kotlyar, who noted that a refugee is a specific person who is forced to stay outside their country due to aggression, persecution, and does not want or may not enjoy the protection of the country of his citizenship.

The concept of "refugee" in international law is stated in the Convention relating to the Status of Refugees, adopted on July 28, 1951 in Geneva. As noted earlier, a "refugee" means a person who, because of a well-founded fear of being persecuted on the grounds of race, religion, nationality, belonging to a particular social group or political opinion, is outside the country of his or her nationality and unable to enjoy protection. countries or unwilling to enjoy such protection due to such fears; or, not having a certain nationality and being outside the country of his former place of residence as a result of such events, cannot or does not wish to return to it as a result of such fears [1].

The Charter of the Office of the United Nations High Commissioner for Refugees (UNHCR) and the 1951 Convention relating to the Status of Refugees form the general basis of modern international legal regulation in the field of refugee protection. The definition contained in the UNHCR Charter refers to the category of "refugees": "persons who, as a result of events prior to January, 1 1951 and due to well-founded fears of being persecuted on the grounds of race, religion, nationality or political affiliation, beliefs are outside the country of their nationality and cannot enjoy the protection of the government of that country or do not wish to enjoy such protection ... "; as well as persons who, "not having a definite nationality and being outside the country of their former place of residence, are unable or unwilling to return ... as a result of such fears" (paragraph 6 of Chapter 2) 62. Since the 1990s, there has been an increasing tendency in UNHCR to in-

formally (without making additions or changes) to expand the definition of "refugee" by gradually introducing additional criteria to adapt to the nature of new flows. systematically changing refugees [7].

From the point of view of international law, the legal status of a refugee is determined in the legal space characterized by the principle of state sovereignty and related principles of territorial sovereignty and self-preservation and humanitarian principles arising from general international law (including the purpose and principles of UN) and individual agreements. That is, the content of the legal status of refugees is their rights, freedoms and responsibilities under the rules of general and special international agreements, as well as the implementation of national legislation.

It should be emphasized that refugees, along with other categories of the population, ie citizens of the state, foreigners, stateless persons, asylum seekers, regardless of whether their stay in a certain state is legal or illegal, enjoy basic human rights that are universal. This applies to those inalienable human rights and freedoms that were listed in the 1948 Universal Declaration of Human Rights.

However, there are some restrictions on granting refugee status. The right to grant this status still remains before the state to which they have applied for protection. After all, there are checks on the reality of the need to provide assistance to specific individuals. This is necessary in order to check whether the person has committed crimes against the security of states and humanity.

Thus, guaranteeing respect for and protecting these human rights is both a way to address the refugee problem and a way to prevent it. First, there is the need to ensure adequate protection of human rights in the country of origin of refugees before expecting refugees to return to their country of citizenship or permanent residence. Secondly, it is a matter of preventing the citizens of certain states from having very real fears about their possible persecution and violence for certain reasons. That is why international instruments enable refugees to enjoy the same rights as other categories of persons, as well as to feel protected.

For the first time the norm of refugee status was introduced into the legal documents of independent Ukraine by the Resolution of the Cabinet of Ministers of Ukraine of July 8, 1992 № 378 "On Approval of the Provisional Regulation on Determining the Status of Refugees from the Republic of Moldova" [12], which determined the grounds for granting refugee status, the rights and responsibilities of refugees, the circumstances that led to the loss of this status.

In Ukraine, the concept of "refugee" is consolidated in the Law "On Refugees and Persons in Need of Additional or Temporary Protection" of July 8, 2011. Refugee is a person who is not a citizen of Ukraine and due to reasonable fears of persecution on the grounds of race, religion, nationality, citizenship (citizenship), belonging to a certain social group or political beliefs is outside the country of his citizenship and can not enjoy protection that country either does not wish to enjoy this protection due to such fears, or, not having citizenship (nationality) and being outside the country of its

previous permanent residence, cannot or does not wish to return to it due to these fears (art. 52).

Scholars often combine such concepts as "refugee" and "internally displaced person". However, in the legislation of Ukraine these concepts have a clear distinction. They are particularly distinguished by the rights and responsibilities of refugees and internally displaced persons. Thus, according to the legislation of Ukraine, an internally displaced person is a citizen of Ukraine who permanently resides in Ukraine, who was forced or left his / her place of residence as a result or to avoid negative consequences of armed conflict, temporary occupation, widespread violence, mass human rights violations, and emergencies of natural or man-made nature [10].

A comparative analysis of the articles of the 1951 Convention relating to the Status of Refugees and the current legislation of Ukraine shows that there are no significant contradictions between them. Thus, the norms of Ukrainian legislation were adopted on the basis of the principles of international law. Therefore, the basic concepts of the legal status of refugees exist in accordance with international law. These concepts are almost identical and have the same meaning. Both international and national legislation needs to be significantly improved, as well as the creation of regulations that would, on the contrary, be aimed at reducing the number of refugees in the modern world.

Despite the fact that the legislation is quite similar, there are still some differences in the granting of legal refugee status, or more precisely in the granting of territorial asylum.

The difference is that at the level of Ukrainian legislation there is no single legal act that fully regulates the asylum mechanism. This right to asylum is contained in the Constitution of Ukraine, as well as mentioned in the Law "On the Legal Status of Foreigners and Stateless Persons". But the above-mentioned regulations do not interpret the concept of "asylum seekers". Compared to international law, which contains the UN Declaration on Territorial Asylum. This document contains the basic provisions on granting asylum to persons in need.

Another difference is that the Convention relating to the Status of Refugees contains a provision that enshrines the right of refugees to employment ("Employment"). Ukrainian law also contains this right in the Law "On Refugees and Persons in Need of Additional or Temporary Protection" [9], which emphasizes that refugees have equal rights with Ukrainian citizens to work. However, this right is not mentioned either in the Law "On Employment" or in the Resolution of the Cabinet of Ministers "On approval of the Procedure for issuance, extension and revocation of work permits for foreigners and stateless persons." This is a gap in the legislation of Ukraine and thus allows employers to use the provisions of these regulations at their discretion.

Thus, national law contains documents that establish the legal status of refugees. Laws of Ukraine "On Refugees and Persons in Need of Additional or Temporary Protection" were created on the basis of international law (Convention relating to the Status of Refu-

gees). That is why the Ukrainian legislation corresponds to the international one, although it has certain differences, which, first of all, consist in the legal regulation of granting asylum, as well as exercising the rights of refugees.

In recent years, scientists have paid increasing attention to the protection of human rights and freedoms. Due to the constant increase in migration processes in the world, an important issue arises to protect the rights of such a category of people as refugees.

Despite the fact that the Universal Declaration of Human Rights was adopted in 1948, and the Convention relating to the Status of Refugees in 1951, they still do not lose their relevance. However, certain provisions of the above documents still need to be updated and improved. The main shortcomings of the modern international mechanism for the protection of refugee rights are the lack of an updated universal definition of "refugee", which will cover victims of war, as well as people fleeing mass human rights violations, violence, large-scale natural disasters, aggression by others, states, occupation, and will help solve problems of regulating the legal status of internally displaced persons.

It is also important that not all countries in the world provide asylum to refugees, although on one hand this right remains with the state, and on the other is the Universal Declaration of Human Rights tells us that everyone has the right to seek protection in other countries.

An important problem in protecting the rights of refugees is their time limit. In particular, this applies to the right of this category of persons to employment in the state of asylum.

An example of the insufficient granting of all rights to refugees is the practical implementation of the legal status of refugees in EU member states, which is due to various factors are some EU member states, for example, often reduce the overall social security of refugees and asylum seekers. Will promote the realization of only their individual rights.

The problem of regulating the legal status of refugees is seen as a problem of the relationship between international law and domestic law of the state in which the refugees are. At the same time, it is important to pay attention to the fact that the laws of the states to which refugees have applied determine the scope of their rights and freedoms for this category of persons.

Thus, there is a lack of a clear mechanism for international control over the fulfillment by states of their obligations in the area of regulation of refugee rights regulation.

The legislative level also does not specify what level of persecution must be in order to grant a person refugee status, which is understood as "persecutors". Of course, all these questions need a specific answer from both international and national law.

With regard to national legislation, it is necessary to mention the problems that also arise in connection with the protection of the rights of refugees. First of all, it is the imperfection of the legal framework, which would fully cover all the processes associated with this institution. This concerns asylum mechanisms, the lack

of a definition of "asylum seekers" and gaps in the legislation on refugee rights and freedoms. In particular, it [13, p. 191]:

- lack of principle of interpretation of doubts in favor of the applicant;
- granting temporary protection only to persons who come en masse from countries that share a common border with Ukraine;
- limitation to 5 working days of the term of application to the bodies of the State Migration Service with a request for granting the status or protection and the term of appealing the refusal;
- the possibility of transmitting an application for refugee status or subsidiary protection only through the State Border Guard Service, the impossibility of transmitting such applications to employees of the Ministry of Internal Affairs [13].

As for the elimination of shortcomings, then, of course, international law needs to be amended, supplemented and clarified. However, an important role relies on officials and officials, namely the reasonable practice of applying legal norms, because they ultimately make decisions that can significantly affect the future life of refugees, namely the scope of their rights, conditions of stay in a particular country.

As noted earlier, there are some gaps in the legal regulation of refugee status. That is why legislators have an important task, which is to adopt such legal acts that would really protect the rights of refugees and be effective in practice.

Improvement of legislation regulating the legal status of refugees can be divided into certain stages. The first stage should include the creation of new or updated existing international documents. That is, to expand certain definitions, in particular such as: "asylum", "asylum seekers", "refugee", "legal status of a refugee". Thus, prescribe a clear mechanism, starting with the granting of asylum, then the legal status of a refugee, the basic rights and responsibilities, privileges that belong to this category of persons, as well as to determine the sequence of deprivation of refugee status. That is, to determine all the conditions that a person must meet in order to be considered a refugee. Particular attention should be paid here to the institution of asylum, which includes this concept, the list of documents required for asylum, as well as to make these conditions the same for all states that will provide it. Thus, this applies directly to the Convention relating to the Legal Status of Refugees (1951), the Declarations on Territorial Asylum (1967), and the Protocol relating to the Status of Refugees (1967).

The second stage would be characterized by the creation of control and supervisory commissions. A system could be set up whereby supervisors would be permanently located in the country providing protection and monitoring compliance with applicable international and national law, and in the event of non-compliance would notify control authorities in order to carry out timely inspections and sanctions. That is, the creation of the International Monitoring and Control Commission on compliance with international legislation on refugees. It would also be effective to upgrade existing officials who directly provide asylum and legal

refugee status, as they were created during the adoption of the Conventions and Declarations and are now somewhat outdated and not fully in line with modern needs, as well as adjusting their functions and powers.

And the third necessary step is the real practical application of legislation on the protection of the rights of refugees in all countries providing asylum, protection. That is, the creation of a single legal framework for all, so that, in compliance with national legislation on the legal status of refugees, they are given equal rights and responsibilities. Thus, the creation of a Unified system of asylum, a Unified system of granting rights, freedoms and privileges to this category of persons and a Unified system of legal protection of violated rights of refugees. That is, that no country has the right to restrict or determine at its discretion which refugee rights are a priority and need funding.

As for the legislation of Ukraine, it, of course, also needs to be improved. After all, with the development of recent events in the world, we can observe its imperfection, the lack of regulations governing issues related to the granting of legal status to refugees.

Summarizing the above, it should be noted that an effective mechanism for ensuring the rights of refugees must be developed at the international level, which should include an exhaustive and specific list of entities authorized to take measures to create conditions for refugees to exercise their rights. Also, the establishment of bodies that will perform control functions, as well as monitor the strict compliance with all requirements of other states. And of course the modernization of relevant international documents and national legislation of individual states.

References

1. Bezpalova O.I. Features of defining the rights of refugees in international law. URL: file:///C:/Users/123/Downloads/ry6jswCEDN2zcVrGk5K_2pS6EXaU8V0M (access date: 30.09.2020).
2. Additional Protocol to the Interim Agreement and the Convention relating to the Status of Refugees Arriving from Germany, signed at Geneva on 4 July 1936 and 10 February 1938 respectively. URL: http://unhcr.org.ua/img/uploads/docs/Temp%20Agreement%201936_1 (access date: 30.09.2020).
3. UN Universal Declaration of Human Rights of December 10, 1948. № 93. Official Gazette of Ukraine. 1948. № 93. URL: http://apnl.dnu.in.ua/5_2018/10.pdf (access date: 30.09.2020).
4. Convention relating to the Status of Refugees of 28 July 1951. URL: https://ips.ligazakon.net/document/view/mu51k02u?an=498606&ed=1951_07_28 (accessed 30.09.2020).
5. Convention relating to the Status of Refugees Arriving from Germany. URL: <http://unhcr.org.ua/img/uploads/docs/Convention%20Germany%201938> (access date: 18.01.2020).
6. Kotlyar O.I. Definition of "refugee" in international documents. Lawyer. 2013. № 6. URL: file:///C:/Users/123/Downloads/adv_2013_6_7 (access date: 30.09.2020).

7. International legal status of refugee rights. URL: https://pidruchniki.com/1098120546705/pravo/mizhnarodnopravoviy_status_prav_bizhentsiv (access date: 30.09.2020).

8. The right to free movement. URL: file:///C:/Users/123/Downloads/%D0%A2%D0%B5%D0%BC%D0%B0%207 (access date: 30.09.2020).

9. On refugees and persons in need of additional or temporary protection: Law of Ukraine of 2011 №24. URL: <https://zakon.rada.gov.ua/laws/show/3671-17> (access date: 30.09.2020).

10. On ensuring the rights and freedoms of internally displaced persons: Law of Ukraine of 20.10.2014. № 1706. Information of the Verkhovna Rada of Ukraine. 2015. №1.

11. On employment: the Law of Ukraine of 2013. №24. URL: <https://zakon.rada.gov.ua/laws/show/5067-17> (access date: 30.09.2020).

12. On approval of the Provisional Regulation on the Procedure for Determining the Status of Refugees from the Republic of Moldova and Providing Assistance to Them. Resolution of the Cabinet of Ministers of July 8, 1992 № 378. URL: <http://zakon2.rada.gov.ua/laws/show/378-92-%D0%BF> (access date: 30.09.2020).

УДК: 342.83

13. Svyashchuk AL Problems of refugee rights and challenges of today: textbook. way. Kharkiv: Publishing house, 2018. 324 p.

14. Interim agreement on the status of refugees arriving from Germany. URL: <http://unhcr.org.ua/img/uploads/docs/Temp> (access date: 30.09.2020).

15. Agreement on the legal status of Russian and Armenian refugees. URL: <http://unhcr.org.ua/img/uploads/docs/Agreement%201928> (access date: 30.09.2020).

16. Agreement on the extension to other categories of refugees of certain measures taken in favor of Russian and Armenian refugees. URL: <http://unhcr.org.ua/img/uploads/docs/other%20groups%20of%20refugees%201928> (access date: 30.09.2020).

17. Chenshova NV Features of the regulation of refugee status in the legislation of Ukraine as a potential member state of the European Union. Right. 2015. № 35. URL: <https://dspace.uzhnu.edu.ua/jspui/bitstream/lib/14944/1/> (access date: 30.09.2020).

18. Chuenko V. Historical preconditions for the emergence and periodization of the legal status of refugees in international law. International private law. 2017. №2. URL: <http://pgp-journal.kiev.ua/archive/2017/2/61> (access date: 30.09.2020).

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ON THE ROLE OF LOCAL SELF-GOVERNMENT IN RUSSIA

Аннотация.

В статье анализируется роль местного самоуправления в современных условиях развития российского государства, его значение для повышения эффективности инициатив населения. Рассматривается место муниципалитетов в системе публичной власти.

Abstract.

The article analyzes the role of local self-government in the modern conditions of the development of the Russian state, its importance for increasing the effectiveness of public initiatives. The place of municipalities in the public power system is being considered.

Ключевые слова: *местное самоуправление, государственная власть, муниципалитет, публичная власть, община.*

Keywords: *local government, state power, municipality, public power, community.*

Конституция Российской Федерации указывает, что местное самоуправление в России «признается и гарантируется» (ст. 12) [1]. Статьей 1 Федерального закона от 6 октября 2003 г. № 131-ФЗ «Об общих принципах организации местного самоуправления в Российской Федерации» (в ред. Федерального закона от 20.07.2020 г., № 241-ФЗ) [2] определено, что местное самоуправление «признается, гарантируется и осуществляется на всей территории Российской Федерации». Очевидно, что основным субъектом такого признания, а уж тем более гарантирования местного самоуправления выступает государство. Следовательно, местное самоуправление самостоятельно, но не изолировано от государственной власти. Оно встроено в общую систему управления общественными процессами.

Конституционными нормами установлено государственное устройство России, предусматривающее осуществление власти народа на трех относительно самостоятельных уровнях публичной власти - Российской Федерации, субъектов Российской Федерации, местного самоуправления.

Функционирование данной трехуровневой системы власти основано на следующих принципах:

- все три уровня публичной власти являются самостоятельными формами осуществления власти народа. Подчиненность между органами власти различных уровней допускается исключительно в случаях, прямо предусмотренных Конституцией РФ или федеральными законами. Воздействие федеральной власти на региональную и муниципальную, а также региональной власти на муниципальную должно осуществляться через принятие законов, регламентирующих отдельные аспекты функционирования соответствующего уровня власти, а также через действие правовых механизмов государственного контроля законности деятельности соответствующего уровня публичной власти;

- каждый уровень публичной власти обладает собственными законными интересами, которые могут и не совпадать, и даже противоречить интересам иных уровней публичной власти. Все эти интересы признаются равноценными, но отстаивание их должно быть подчинено защите прав и свобод человека и гражданина;

- каждый уровень публичной власти вправе отстаивать собственные интересы, но не вправе в целях защиты собственных интересов вторгаться в компетенцию иного уровня публичной власти.

Конфликтные ситуации подлежат разрешению через согласительные процедуры, а при недостижении согласия - в судебном порядке [3].

В Российской Федерации местное самоуправление как форма власти народа:

1) обеспечивает самостоятельное решение населением вопросов местного значения, являющихся частью круга вопросов, подлежащих решению публичной властью;

2) вправе принимать решения, обязательные для всех субъектов правоотношений, находящихся на подвластной территории (в соответствующем муниципальном образовании), - физических и юридических лиц, учреждений, независимо от форм собственности, органов государственной власти и местного самоуправления;

3) обладает механизмами государственного (осуществляемого от имени народа Российской Федерации) принуждения к признанию своей власти, в том числе в формах:

- законодательного установления обязательности исполнения решений, принятых населением на местных референдумах, и решений органов местного самоуправления,

- возможности обращения к судебной защите законных прав и интересов местного самоуправления [4].

Наличие местного самоуправления подразумевает, что в стране наряду с интересами личности и государства признаются и гарантируются еще и местные (муниципальные) интересы, связанные с решением вопросов непосредственного обеспечения жизнедеятельности населения каждого отдельно взятого поселения или иной населенной местности.

Интересы этих территориально обособленных частей государства (точнее, их населения) рассматриваются в качестве самостоятельных интересов, имеющих государственное значение, но не подчиненных интересам федеральной власти.

Местное самоуправление в странах, где оно развито, используется в качестве структуры, позволяющей оптимизировать использование государственных ресурсов. Обеспечение гарантированного минимума текущих потребностей граждан является задачей государственного значения, и, следовательно, государственные средства на решение данной задачи должны выделяться независимо от наличия или отсутствия местного самоуправления.