

Internal migration and displaced persons in Ukraine: Governing policies and protections by the administrative courts

Olena Miliienko*

Doctor of Law, Associate Professor
Vasyl Stus Donetsk National University
21021, 21 600-richchia Str., Vinnytsia, Ukraine
<https://orcid.org/0000-0003-0389-7821>

Abstract. The relevance of the study lies in the fact that Ukraine is in a state of military conflict, which has caused an increase in the number of internal migrants, as well as the need to update the current legislation to regulate their status in accordance with the new realities of life. The purpose of the study was to study the main provisions of the state policy regarding internal migrants in Ukraine, the basics of legal regulation of the status of this category of population, the determination of the potential and consequences of internal migration for the post-war reconstruction of Ukraine, as well as its development trends and reasons for its spread at the current stage, highlighting the features of internal migration on based on the conducted analysis. In accordance with the set goal, the task of the research was to study the general positions on the settlement of disputes in Ukraine on the protection of the rights and freedoms of internal migrants in the aspect of administrative and procedural law. General methods (analysis, synthesis, dogmatic, dialectical) and special methods (formal-logical, legal hermeneutics) were used during the research in order to achieve its goals and objectives. In addition to the methods of scientific knowledge of the theoretical orientation, empirical methods of research (description, comparison) were used. The result of the study was the substantiation of the proposition that the analysis of the general dynamics of the legal regulation of administrative responsibility for violations of migration legislation indicates the existence of two most common trends: the strengthening of punishments for offences in the context of armed aggression against Ukraine, as well as the systematic criminalization of acts, an increase in the number of administrative offences and crimes. The conclusion of the study was the argumentation of the position that internal migration in Ukraine at the current stage has a hybrid nature, caused by a combination of factors of different directions, a combination of military, economic and social factors, which must be taken into account when reforming the policy of public administration in the specified area. The practical significance of the research is that there is currently a military conflict in Ukraine, which causes complex processes of internal migration, and its results are effective for use in developing practical recommendations for updating legislation in the specified area in order to reduce or eliminate the negative consequences that may be caused by internal displacement of the population

Keywords: public administration; executive authorities; military conflict; displacement processes; legal guarantees

Introduction

One of the problems of today is the growing scale of internal migration, the resettlement of people within a particular country, and the issue of protecting the rights of persons who carry out such movements without crossing the state border is also considered to be no less relevant. The significance of studying the legal status of internally displaced persons is primarily due to the quantitative indicators of this category of persons, since at the present stage there are approximately 260 million of them worldwide. Among this category of persons, more than 60 million people have been forcibly displaced. However, the legal status of internally displaced persons, as compared to that of refugees, has not become a major topic of discussion by the international community. It seems possible to explain that it is the status of refugees, not internally displaced persons,

that has become the main area of concern for countries in the past, from the point of view that this category of population is primarily subject to the protection of their country of origin, i.e., it is carried out at the national, not international level. The concept of the status of internally displaced persons was understood after the creation of the Office of the United Nations High Commissioner for Refugees (UNHCR) in 1950. This organization was established to provide assistance to refugees who had been forcibly removed from their homes during the Second World War. It was the first initiative of the UNHCR to classify internally displaced persons as refugees who were forced to flee their homes to avoid persecution but did not cross internationally recognized borders. This definition is based on two key aspects: forced displacement and displacement of persons

Suggested Citation

Article's History: Received: 18.06.2023 Revised: 29.08.2023 Accepted: 27.09.2023

Miliienko, O. (2023). Internal migration and displaced persons in Ukraine: Governing policies and protections by the administrative courts. *Social & Legal Studios*, 6(3), 94-103. doi: 10.32518/sals3.2023.94.

*Corresponding author



within the borders of the state concerned (Leaders' Summit on Refugees, 2016).

The phenomenon of internally displaced persons (IDPs) appeared in Ukraine in 2014 due to Russia's attack on Ukraine and subsequent hostilities and occupation, and with the beginning of the full-scale invasion, the number of this category of population increased significantly. As of the beginning of April 2023, the UN recorded more than 8.1 million Ukrainian refugees in Europe, and the number of those with temporary protection or similar status has increased by 185,000 since the end of January to approximately 5 million (The Ukrainian refugee..., 2023). At the same time, as of 23 January 2023, the International Organization for Migration (2023) estimates that 5.4 million internally displaced persons have been displaced throughout Ukraine, a decrease from 5.9 million as of 05 December 2022, and the estimated number of IDPs in Ukraine has been steadily decreasing since August 2022. The latest indicates a decrease in the total number of internal migrants in Ukraine and an increase in the number of people migrating outside Ukraine, which is confirmed by the results of a survey among this category of the population: among all respondents who have already considered moving, 57% were focused on moving within Ukraine, and 26% were moving abroad (compared to 20% in December 2022). In addition to the objective reasons for the growth of external migration, there are also latent subjective factors that influence it, which are both necessary to identify and study. Identification of these latent factors is possible through a detailed study of internal migration and the motives that encourage internal migrants to change their place of residence.

M.O. Lohvynova (2019) studied the issue of internally displaced persons in Ukraine, in particular, she classified this category of persons, identified the main features of internally displaced persons, namely that they are citizens of Ukraine, and their connection with the state is combined with the right to permanent residence, they have a certain reason for leaving the administrative-territorial unit, their place of residence due to hostilities on its territory or its temporary occupation, and therefore need to protect their rights and freedoms, while they do not leave its borders, which are recognized at the international level. The above is also confirmed by T.R. Kulchytskyi (2019), who in his scientific work notes the importance of guaranteeing the implementation of social protection of human rights in Ukraine, which is provided for and enshrined in the current domestic legislation. Firstly, it is the Law of Ukraine No. 1706 "On Ensuring the Rights and Freedoms of Internally Displaced Persons" (2023), which is connected with the importance of a person as the highest social value in Ukraine and the priority of the tasks of the executive authorities on migration issues to improve this type of activity, increase the level of accessibility and quality of services for this category of population provided by the state. I.V. Shulzhenko (2020) emphasizes the urgent need to improve the legislation of Ukraine to ensure the effectiveness of social and labour relations with internal migrants, in particular, scientific and pedagogical workers. T. Tsymbalystyi and A. Blashchak (2019) emphasize the need for effective interaction between executive authorities and internal migrants to ensure their rights in the field of social direction, including payments, services, and restoration of documents.

The purpose of the study was to study the basics of public administration in Ukraine regarding internal migration

issues in the context of armed aggression against Ukraine. In accordance with the purpose of the research, his task was to analyse the judicial practice of the appellate administrative courts of Ukraine regarding cases of violation of the rights of internally displaced persons as internal migrants in order to identify the cause-and-effect relationship between the protection of the rights and freedoms of internally displaced persons and their migration within Ukraine.

Materials and methods

To achieve the research goal and solve its tasks, the author used philosophical methods: dialectical, analytical and dogmatic; general scientific methods, in particular, analogy, synthesis, and systematic analysis of socio-economic and political processes. For a more in-depth and detailed study, to obtain more objective results, the tools of special legal methods were used: comparative legal, formal legal, and legal hermeneutics. The statistical method was also used to comprehensively cover the subject of the study and substantiate its results. The dialectical method of research was used to study the status of internal migrants in Ukraine and its enshrining in domestic legal acts. The analytical method was used to identify the main causes and consequences of internal migration in Ukraine, and to determine the impact of the ongoing military conflict in Ukraine on internal migration processes. The dogmatic method was used to study the role of the executive branch in implementing the State policy in the field of internal migration, its provision of administrative services in this area, as well as the importance of the judiciary in Ukraine as one of the main elements of the system of protection of human and civil rights, including in relation to internal migrants as a special category of the population.

By using the methods of analogy and synthesis, the study identifies specific tasks that need to be addressed in order to eliminate the shortcomings of legal regulation of the status of internal migrants in Ukraine, as well as the mechanism of public administration in this area. The method of systematic analysis of socio-economic and political processes has led to the conclusion that the sphere of internal migration is primarily closely related to internal (social, economic, political situation in certain regions or in the whole country) factors that directly affect it. In addition, the application of this method allowed the study to formulate a justification for the position that internal migration has its own peculiarities, in particular, there is a peculiar specificity in the application of various types of punishment to those who violate migration rules. The special comparative legal method used in the study allowed for a more detailed examination of its subject, and for identifying the distinctive, specific characteristics and content of such a category as "internal migrant". With the help of a special formal logical method used in the study, further directions of transformation processes of internal migration in Ukraine after the end of the ongoing military conflict were identified. The use of the classical methodological apparatus in combination with a special method of legal hermeneutics helped to form the research field for the development of universal approaches to understanding public administration in the field of internal migration.

In order to achieve the goal and objectives of the study, the statistical method was also used to analyse and study the problems of internal migration in more detail, to identify the cause and effect relationships between internal migration and social, political and economic phenomena that are currently

taking place in Ukrainian society. This method was also used to clarify the peculiarities of the mechanism for protecting the rights of internal migrants in administrative proceedings and to formulate more accurate research results for the analysis of available data in the field of internal migration.

Results

Since 2003, the number of IDPs has been on the rise in the world, as evidenced by statistics on internal displacement in the Middle East and in a number of other countries, such as Colombia. The scale of these processes around the world confirms the tendency for the number of internally displaced people to continue to grow in the future. These processes, in many cases, in addition to the process of displacement itself, cause severe psychological and emotional distress for internally displaced persons who are affected by armed conflicts or wars, political repression or economic crises, which may be accompanied by acts of violence and gross human rights violations. Thus, in almost all cases, the social phenomena of internal migration are accompanied by negative mental and emotional events and experiences. It is important to note that the process of internal displacement is often accompanied by the destruction of family structures. In many cases, social and cultural ties are interrupted or disrupted, stable labour relations are terminated, and access to education and other social services is lost. This is especially evident in the low or inadequate level of food and medical supplies for internally displaced persons, as well as in the insufficient provision of medical and other vital services. This situation leads to massive illness among the most vulnerable groups of internally displaced persons, including children, women, the elderly, and persons with disabilities. This can result in a deep social crisis.

Obviously, the fundamental principles in the field of human rights protection, which are reflected in the annual UN appeals to states, provide a mechanism for addressing these strategically important issues, taking into account the manifestations of humanity and humanism, as well as a responsible attitude to their solution not only by the government of a particular country, but also through the active involvement and participation of each of its citizens. Thus, these principles act as a universal motivational stimulus for each individual, embodying the slogan "Protect Human Rights". The main goals of their activities are legal equality, non-discrimination, civic engagement, widespread application and increased interaction (Leaders' Summit on Refugees, 2016). Another subgroup of internally displaced persons are victims of natural disasters (e.g., floods), man-made events (e.g., accidents at industrial facilities) or man-made crises (e.g., terrorist attacks). They may also include persons who have been forced to leave their homes as a result of development projects by the state of which they are nationals. Such projects may include, for example, the construction of hydroelectric power stations, which leads to the flooding of certain areas. In these situations, people have changed their place of residence for the above reasons or for similar reasons, they remain in the same country in which they previously lived, and therefore belong to the category of internally displaced persons. However, unlike refugees, in most cases they do not have access to social programmes, protection, and assistance at all or receive them in full. It is also possible that internal displacement is caused by certain actions on the part of the government, or, for example, if the state has not taken ad-

equate measures to save its citizens from insurgents or violence related to the armed conflict on its territory. However, even in such circumstances, IDPs are protected by their state.

Freedom of movement is recognized as one of the fundamental human rights defined by the Universal Declaration of Human Rights (1948). Article 13(2) states that everyone has the right to leave any country, including his or her own, and to return to his or her country. This principle is also fundamental to the constitutions of democratic countries, including Ukraine, as it covers the legal status of all categories of the population of a given country: citizens of the country, including internally displaced persons, stateless persons, bi-patriots, and foreigners staying on its territory. If defining in more detail what criteria determine the status of displaced persons, it is necessary to highlight, firstly, that these are persons who have the citizenship of a third state or no state recognizes them as its citizens. In most cases, their protection is ensured by Article 1A of the Geneva Convention (1949), as well as other international or national legal acts that provide protection to the following persons:

- those who are forced to flee from areas of armed conflict or where there are outbreaks of violence;
- those who are at serious risk of being subjected to systematic or pervasive human rights violations.

In addition, the displacement of such persons from their country or place of residence, including at the initiative of international organizations and in the process of evacuation, implies that they are unable to return to safe and stable living conditions due to a certain situation (political, social, military) in their country. The Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights define in detail the principle of respect for human rights. The universality of the norm requiring states to respect human rights without discrimination is noted, as confirmed in the analysis of international legal acts. This general obligation of states does not require the unification of national legislation, but the development of standards to support national legislation. Thus, despite globalization, the regulation, and protection of human rights remains the direct responsibility of each state. International norms, in most cases, require domestic implementation to be applied at the national level. The standards of behaviour of international legal instruments do not dictate the specifics of a state's fulfilment of its obligations, but they do limit its freedom in national legislation, including liability for human rights violations. Like any other international legal principle, respect for human rights is being adapted to modern realities. Thus, an individual becomes a direct subject of international law, and the problem of forced displacement is included in the structure of international human rights protection. The recent strategies of the international community are aimed at balancing the sovereignty of states and the rights of citizens, while the search for effective mechanisms to assist internally displaced persons as a highly vulnerable group of people continues.

Thus, an "IDP" is a person who has (in most cases, forcibly) moved from one place to another. It seems possible to distinguish between the concepts of "refugee" and "internally displaced person" by the criterion of citizenship of the country within which the person has moved: the first category will not have it, unlike the second. This circumstance is the determining factor for the division of the terms analysed.

Despite the fact that in recent years the scientific activity on studying the problems of internally displaced persons has become much more active, compared to similar studies of the legal status of refugees, it can be determined that a number of issues remain unresearched in relation to IDPs. Firstly, this can be explained from the point of view that the status of internally displaced persons and description of their characteristics are based on indicators of need and mutual assessment of migrants and the indigenous population, which provides insufficient coverage of the legal and political consequences of forced migration. In addition, research on the status of internally displaced persons is hampered by incomplete, insufficient or imperfect statistics.

Although the status of internally displaced persons is regulated mainly at the national level, global processes such as wars, political, religious, ethnic conflicts and economic crises have a significant impact on this process. These factors cause an increase in internal migrants and influence their

perception of the world and their behaviour. Ethno-social and ethno-political factors determine the complexity and multifaceted nature of internal migration. At the same time, internal migrants integrate into local communities, and regional authorities are responsible for their social adaptation. This adaptation, which is currently only basic in Ukraine, requires further research. Internal migration is important for understanding population dynamics and the multifaceted relationship between population and the development of a nation, but studies of internal migration are less frequently conducted because measuring internal migration is difficult and data are less available (Alam & Mamun, 2022). In addition, studies of annual migration between regions of the same country are rare due to the lack of data from citizens themselves (Bonnet, 2021). Only the reports of the courts of appeal on the consideration of appeals in cases of administrative offences are available for analysis, in particular, data for 2022 and 2021 were analysed for the study (Table 1).

Table 1. Reference to the report of the appellate courts regarding the consideration of appeals in cases of administrative offences for 2022-2021

The number of appeals in cases of administrative offences for 2022, which were filed by internally displaced persons	The number of appeals in cases of administrative offences for 2021, which were filed by internally displaced persons
310	108

The analysis of the mentioned data indicates a decrease in the number of applications of internally displaced persons to appeal administrative courts by 65%, which indicates positive changes in the mechanism of public management in the field of migration and more effective measures for the implementation of state policy in it. At the same time, the data indicate

an increase in the efficiency of the general courts in considering the specified categories of cases in the corresponding period, which was analysed. At the same time, it is possible to analyse and identify a tendency to decrease or increase the number of appeals of the specified category of citizens to these court authorities on the subject of claims (Tables 2, 3).

Table 2. Results of review of decisions (rulings) of the court of first instance on appeals for 2022

No. in order	Categories of cases	The number of revised decisions (rulings) of the court (sum of columns 2, 3, 4, 11), units	Number of decisions (resolutions) left unchanged, units
A	B	1	2
103	Court cases related to disputes regarding the implementation of public policy in the areas of labour, employment and social protection of citizens, as well as public housing policy	15082	11092
104	...in particular, cases related to the management functions of the authorities (appointment, calculation, and payment of insurance payments) in the context of relevant forms of mandatory state social insurance include:	11636	8473
114	▸ internally displaced persons.	114	97
115	Supervision and control in the field of relevant types of mandatory state social insurance:	36	31
122	▸ internally displaced persons.	23	18
123	Employment of the population, including:	495	395
127	▸ internally displaced persons.	1	1
129	Court cases related to the maintenance of public order and security, protection of national security and defence of Ukraine, in particular, those related to:	3391	2267
131	▸ stay of foreigners and stateless persons on the territory of Ukraine, of them;	326	239
132	▸ forced return to the country of origin or a third country of foreigners and stateless persons;	39	26
133	▸ forced deportation of foreigners and stateless persons outside Ukraine, their detention;	197	144
134	▸ refugees.	171	140

Table 3. Results of review of decisions (rulings) of the court of first instance on appeals for 2021

No. in order	Categories of cases	The number of revised decisions (rulings) of the court (sum of columns 2, 3, 4, 11), units	The number of decisions (resolutions) left unchanged, units
A	B	1	2
103	Court cases concerning disputes in the context of public policy in the fields of labour, public employment, social protection of citizens and public housing policy, including disputes related to management, supervision, control, and other authoritative management functions (such...	19643	12776
104	...as appointment, recalculation, and payment of insurance benefits) within the framework of relevant types of mandatory state social insurance:	13991	8626
114	▀ internally displaced persons.	93	69
115	Supervision and control in the field of relevant types of mandatory state social insurance:	54	46
122	▀ internally displaced persons.	55	49
123	Work, employment of the population, including:	898	734
127	▀ internally displaced persons.	3	2
129	Cases related to ensuring public order and security, national security and defence of Ukraine, in particular regarding:	4561	3022
131	▀ stay of foreigners and stateless persons on the territory of Ukraine, of them;	492	339
132	▀ forced return of foreigners and stateless persons to their country of origin or a third country;	36	21
133	▀ forced expulsion of foreigners and stateless persons outside Ukraine, their detention;	331	225
134	▀ refugees.	349	290

The number of court cases on disputes regarding the implementation of public policy in the spheres of labour, employment and social protection of citizens, as well as housing policy, which were initiated by internally displaced persons, decreased by 18%. A 29% decrease in court decisions that did not change indicates a positive trend. The number of amended or overturned court decisions has decreased, indicating the effectiveness of judicial bodies. Applications from internally displaced persons with labour and employment problems doubled, although all of them were rejected. This indicates the vulnerability of this category of migrants in labour relations, they often work illegally and lose the opportunity to protect their labour rights. Statistics also demonstrate a change in the focus of state policy in the field of migration in relation to Ukrainian citizens, while the rights of foreigners and stateless persons remain insufficiently protected. At the same time, the number of appeals to administrative appeal courts has increased significantly over the past two years. For a more accurate study, it would be useful to analyse the reports of administrative courts by region, but

the available information for the period 2016-2017 is no longer relevant.

The topic of internal migration is relevant both for Ukraine, which is undergoing armed aggression, and for the whole world. Its magnitude is due to a wide range of interrelated aspects, including sociological, geographical, economic, political and legal, which have a global impact. Irrational allocation of human resources can cause world problems such as increased poverty, unemployment, and crime. In Ukraine, internal migration has spread over the past few decades. Since 2014, the main reason for this has been military operations in the east of the country and the occupation of Crimea. However, even before these events, factors such as improved transport links, different living standards and wages, instability in the labour market, the elimination of the registration system and the spread of information technology stimulated the processes of internal migration. The classification of the category of internal migrants in Ukraine in terms of forced resettlement, which exists at the current stage, was carried out by M.O. Lohvynova (2019), who distinguished the groups of its participants (Fig. 1).

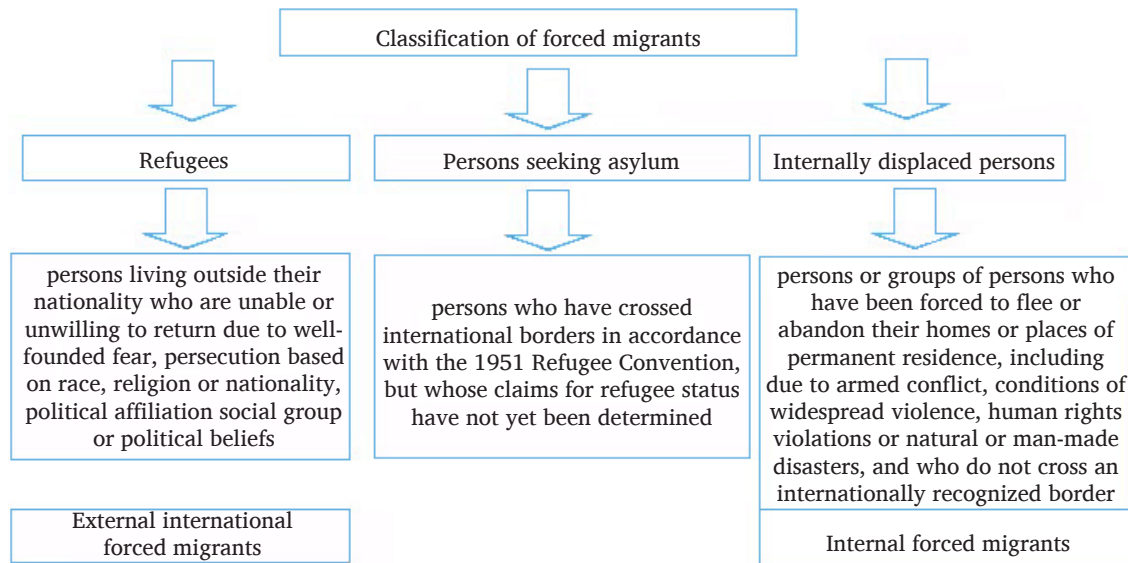


Figure 1. Classification of forced migrants

Source: compiled by the author based on M.O. Lohvynova (2019)

Classification of internal migrants is important for effective legal regulation of their status, protection of rights and provision of state guarantees. Internal migration, as a complex multifaceted process, affects various economic and social spheres. Its dynamics are determined by various factors, such as changes in the economic structure, demography, labour resources and social mobility. Due to its unity and complexity, the consequences of migration differ depending on its structure and volume. Most of the internal migration flow is represented by able-bodied youth and specialists, which leads to an increase in the potential of the region of arrival, and a decrease in the potential of the region of departure. Such a structure requires a separate study according to various criteria, including age, education, profession, field of employment, gender, marital status, nationality, and length of residence. An important factor in the study of internal migration flows by age is the influence of the working population on the demographic situation at the regional and national levels.

An effective state and regional demographic and migration policy of the state and effective measures for its implementation require a mandatory preliminary analysis and consideration of regional characteristics. Ensuring the implementation of such processes has an applied nature, as it allows controlling the scale and direction of internal migration flows, to influence a number of aspects of the socio-economic development of the country and individual regions in an organized and planned manner. An integral part of such a policy should be public management measures that have the necessary impact on internal migration processes. The Russian invasion of Ukraine became the main stimulus for the growth of internal migration in Ukraine, giving it a complex hybrid character. The change in state policy in accordance with military challenges was not accompanied by changes in the Strategy of the state migration policy of Ukraine for the period until 2025 (Order of the Cabinet..., 2017), although the Strategy of the state policy on internal displacement for the period until 2025 (Order of the Cabinet..., 2023) was adopted with the corresponding action plan. A comprehensive approach to the regulation

of internal migration is needed, taking into account the impact of migration on personal outcomes, adaptation of the local labour market, and the interaction of migration with housing markets, requiring an update of the relevant legislation without a narrow focus on the status of an internally displaced person (Jia *et al.*, 2022).

Internal migration is formed by a variety of internal and external, political, social and economic factors, with a short-term or long-term impact (González-Leonardo *et al.*, 2022). It is necessary to mention the temporary effects of the COVID-19 pandemic on migration flows, the unprecedented crisis of mass population displacement due to the Russian invasion of Ukraine, as well as the long-term effects of the war on socio-economic stability in Ukraine (Haberfeld *et al.*, 2019). Changes in social life require adjustment of state policy in the field of migration. Economic migrants choose destinations based on their abilities (Pardede *et al.*, 2020), and geographic factors also play a key role (Kupiszewski *et al.*, 1999). In Ukraine, there is a trend towards depopulation of central cities in combination with suburbanization and peri-urbanization (King *et al.*, 2008). Internal migration should be considered separately from external migration, given its unique causes and consequences. However, these movements are becoming increasingly blurred due to geopolitical events, changing borders and the complexity of migration trajectories (Monras, 2022). Despite this, most internal migration is a reaction to internal events, such as the war in Ukraine (Voznyak *et al.*, 2023). The study of internal migration is complicated by the imperfection of statistical data, especially regarding temporary movements and part-time work. A better understanding of the phenomenon of temporary internal migration, its causes and development trends is needed. Perhaps the same criteria should be used for its classification as for permanent migration. Ukrainian legislation does not sufficiently clearly define the functions of management bodies in the field of internal migration, giving rise to a random description of their tasks and powers. Improvement of the legal framework for migration regulation should provide for systematization and codification of legislation and a mechanism for constant monitoring

of their practical implementation. Sanctions for violation of migration rules specified in the current legislation have a general declarative nature.

Actualization of the problems of internal migration in Ukraine determines the development of the judicial system for the protection of migrants' rights, which becomes an integral part of the national judicial system. This system has accumulated significant experience in migrant cases in various fields of law, as migrants are subjects of legal relations requiring protection in constitutional, administrative, criminal, family, civil and other procedures. The updated state policy in the field of internal migration should take into account the mentioned factors affecting migration and be directed towards the implementation of tasks in social and economic policy for the effective reconstruction of Ukraine after the conflict. Ukraine's projected accession to the European Union also requires a transition to market-based tools for managing internal migration movements, which is important for adapting to the new dynamic conditions of existence in a post-conflict state.

To achieve these goals, it is important to create a state policy aimed at improving the well-being of the entire population of Ukraine, not just internal migrants. In addition, it is necessary to take into account other factors that hinder the growth of spatial mobility of citizens, such as the bureaucratization of the mandatory registration system, restrictions on access to social services, insufficient amount of social housing. The fight against violations of the labour rights of internal migrants by employers can be carried out through state control over compliance with the law and the application of harsh penalties in case of its violation. The formation of the state strategy in the field of internal migration and the implementation of relevant measures at the national and regional levels should be based on the principles of protection of human rights and freedoms, a progressive approach to the problems of migrants, and the effectiveness of the actions of all branches of government.

Discussion

At the current stage of addressing internal migration in Ukraine, a number of universal and regional international documents, as well as national legislation, have been adopted, which provide for a mechanism to protect the rights of internally displaced persons and establish appropriate public administration structures. These documents emphasize the principles of democracy, respect for human rights, preservation of the common cultural heritage and promotion of employment of socially vulnerable categories of the population, including internally displaced persons. By adopting and ratifying these legal acts, states have committed themselves to creating an effective system of human rights guarantees. These provisions are binding on all states that have acceded to the Universal Declaration of Human Rights (1948), and the European Court of Human Rights is responsible for monitoring the observance of human rights at the national level. However, the issue of forced displacement is relevant due to the violation of universally recognized human rights, and if all domestic remedies have been exhausted, a person may file a complaint with the European Court of Human Rights. General protection of human rights has the highest priority in society and is a mechanism for avoiding possible conflicts between the individual and the state. The proclamation of a person, his, or her rights and freedoms as the highest

value contributes to the expansion of the state's human rights policy, in particular with regard to internally displaced persons residing in the country. Thus, the right to protection is an integral part of the constitutional status of internally displaced persons, and the principle of universal respect for human rights and fundamental freedoms forms the basis of their legal protection.

Article 1 of the UN Charter highlights one of the main objectives of the UN members – social cooperation aimed at promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion. The key importance is attached to Article 55 of the Charter, according to which the UN contributes to raising standards of living, full employment and creating conditions for economic and social progress and development, and respect for human rights and fundamental freedoms for all. As noted by H. West *et al.* (2021), migration worldwide has reached its highest level, and despite the growing attention to the problems of international migrants, internal migration remains poorly understood, in particular, those issues that highlight how internal migrants are affected by socio-economic, occupational and environmental risk factors in low- and middle-income countries. In addition, the study of this issue is relevant because, along with international migration, internal migration processes are the main factor in the redistribution of the population between sub-national borders, which supports the effective functioning of the economy, is important for social welfare, and is an integral part of human development. The study of internal migration is important in practical terms for the formation of public policy in this area, as the theoretical data obtained can help to develop strategies and programmes that will be more effectively targeted at those groups of the population that need the most state support, internal migrants, as well as to stimulate adapted approaches to universal coverage of social services, adapted to local conditions (Monras, 2022).

The Law of Ukraine No. 1706 "On Ensuring the Rights and Freedoms of Internally Displaced Persons" (2017) regulates the status of internal migrants in a fragmented manner, shifting the legal focus to Ukrainian citizens, despite the fact that this category also includes foreigners and stateless persons who are legally present on its territory. At the same time, it is worth noting that internal migrants of different ages, genders, and occupations have different life needs. In addition, a group of internal migrants of working age may face not only the problem of unemployment in a new place of residence, but also the need to acquire a new profession or improve their existing professional qualifications. As noted by C. Ginsburg *et al.* (2021) note that internal migration processes imply that people change their place of residence without crossing the state border, and modelling internal migration flows can contribute to a better understanding of the characteristics of population mobility and its potential economic and social consequences. A similar view is supported by Y.W. Chen *et al.* (2020), who note that internal migration, if supported by sound public policy in this area, can lead to overall productivity gains from reducing barriers to internal labour migration, taking into account the selection of workers and spatial differences in human capital.

An important issue is highlighted in the scientific work of G. Bryan and M. Morten (2019): as the US experience shows, the state policy in the field of migration should cover the possibility of meeting the interests and needs of all

groups of internal migrants, since, for example, the immigration policy of selective qualification leads to increased welfare for workers with low skills, but losses for highly skilled workers. The spatial factor in migration processes is also highlighted by S. Piyapromdee (2021), who notes that distance is crucial for the impact of internal migration on long-term economic development; the greater the distance internal migrants travel, the greater the long-term economic impact on the host territories. As noted by V. von Berlepsch and A. Rodriguez-Pose (2021), the reasons for internal migration include job availability and wage differentials, as well as working conditions and lifestyle. In the light of the economic rights of internal migrants, their realization and protection, their property rights are also important as one of the main foundations of their livelihoods. S.-A. Oh (2019) notes that the issue of housing for internal migrants is also relevant is correct, and it is considered effective to borrow the positive experience of Germany, which has a specific financial savings model of renting privatized public housing to the poor, which is increasingly aimed at migrant tenants. The use of this approach in the implementation of the state housing policy for internal migrants would help to relieve social tensions in society and improve their living conditions in the new territory.

It is worth agreeing with the opinion of M. Bernt *et al.* (2022) that it is obvious that international migration is studied using large-scale biometric and other data, but the study of internal migration among researchers is very limited. The lack of thorough theoretical developments on internal migration issues, taking into account the case law of the administrative courts of appeal mentioned in the study, leads to imperfections in the mechanism of public administration in this area, as well as violations of the rights and freedoms of internal migrants. According to A. Miranda-Gonzalez *et al.* (2020), internal migration as a macro-demographic process can play a crucial role in influencing real changes in the size and composition of the local population and is considered crucial in promoting the efficient functioning of local, regional and national housing and labour markets. It is the distinction between internal migration and residential mobility that is often drawn with reference to perceived differences in motivation, with migration usually being associated with employment and educational motivations, and shorter-distance mobility with housing and family (Thomas, 2019).

Conclusions

Ukraine is currently undergoing significant socio-economic and political transformations. They necessitate accelerating labour productivity growth, modernizing production, stimulating economic activity, efficient use of labour resources, overcoming staff shortages, creating high-tech jobs, improving vocational education and adapting the training system to the needs of production. These processes contribute to the

growth of territorial labour mobility. Based on the Ukrainian experience, IDPs, as an indicator of the spread and intensity of armed conflicts, require special assistance and protection from the state and the international community, including the creation of safe conditions for return. As an economically, socially, emotionally, psychologically and politically vulnerable group, IDPs are often unable to protect their rights, including through legal recourse. However, they also have the ability to quickly restore their resources and acquire new skills, which are important in returning to normal life and can contribute to the stabilization of the country in the post-conflict period.

In view of the above, the executive authorities in the field of internal migration, when implementing the policy of post-war reconstruction of Ukraine, as well as after updating the relevant legislation, should envisage the following measures: implementation of social security reform: development of measures at the national and regional levels, in particular, to eliminate unemployment in rural regions, as well as those whose infrastructure was most affected by the military conflict in Ukraine; interstate and interregional cooperation: development of measures in cooperation with local governments and communities at the municipal level to mitigate ethnic, social and religious conflicts in the local area; implementation of the institutional content of the state policy: development of a network of support organizations whose main purpose is to support internal migrants; implementation of state and regional control: development of a control system at two levels: on the part of the sending and receiving sides; improvement of the efficiency of the statistics system: introduction of an effective system of quantitative and qualitative assessment of internal migration; development of partnership programmes: when developing relevant measures, small towns should be given preference as centres for attracting labour and developing basic activities; implementation of reforms of the financial and banking systems: improvement of the system of interregional money transfers and development of the donor financing system, development of a single bank card for internal migrants, which would allow them to withdraw and send money without interest to different regions of the country; implementing the judicial defence reform: improving the efficiency of the administrative courts of appeal of Ukraine.

Acknowledgements

The gratitude extends to the Researchers at Risk Fellowship of the British Academy, the Institute of Advanced Study of the University of Warwick and the Politics and International Studies Department of the University of Warwick for their support in undertaking this research.

Conflict of interest

None.

References

- [1] Alam, M.Z., & Mamun, A.A. (2022). Dynamics of internal migration in Bangladesh: Trends, patterns, determinants, and causes. *PLoS ONE*, 17(2), article number e0263878. doi: [10.1371/2Fjournal.pone.0263878](https://doi.org/10.1371/2Fjournal.pone.0263878).
- [2] Bernt, M., Hamann, U., El-Kayed, N., & Keskinilic, L. (2022). Internal migration industries: Shaping the housing options for refugees at the local level. *Urban Studies*, 59(11), 2217-2233. doi: [10.1177/00420980211041242](https://doi.org/10.1177/00420980211041242).
- [3] Bonnet, F. (2021). Beyond the exodus of May-June 1940: Internal migration in France during the Second World War. *Demographic Research*, 45, 577-604. doi: [10.4054/DemRes.2021.45.18](https://doi.org/10.4054/DemRes.2021.45.18).
- [4] Bryan, G., & Morten, M. (2019). The aggregate productivity effects of internal migration: Evidence from Indonesia. *Journal of Political Economy*, 127(5). doi: [10.1086/701810](https://doi.org/10.1086/701810).

- [5] Chen, Y.-W., Ni, L., & Ospina-Forero, L. (2020). Visualising internal migration flows across local authorities in England and Wales. *Environment and Planning A: Economy and Space*, 53(4), 616-618. doi: [10.1177/0308518X20968568](https://doi.org/10.1177/0308518X20968568).
- [6] Geneva Conventions. (1949, August). Retrieved from <https://www.icrc.org/en/doc/assets/files/publications/icrc-002-0173.pdf>.
- [7] Ginsburg, C., Collinson, M.A., Gómez-Olivé, F.X., Gross, M., Harawa, S., Lurie, M.N., Mukondwa, K., Pheiffer, C.F., Tollman, S., Wang, R., & White, M.J. (2021). Internal migration and health in South Africa: Determinants of healthcare utilisation in a young adult cohort. *BMC Public Health*, 21, article number 554. doi: [10.1186/s12889-021-10590-6](https://doi.org/10.1186/s12889-021-10590-6).
- [8] González-Leonardo, M., López-Gay, A., Newsham, N., Recano, J., & Rowe, F. (2022). Understanding patterns of internal migration during the COVID-19 pandemic in Spain. *Population, Space and Place*, 28(6), article number e2578. doi: [10.1002/psp.2578](https://doi.org/10.1002/psp.2578).
- [9] Haberfeld, Y., Birgier, D.P., Lundh, C., & Ellđer, E. (2019). Selectivity and internal migration: A study of refugees' dispersal policy in Sweden. *Frontiers in Sociology*, 4, article number 66. doi: [10.3389/2Fsoc.2019.00066](https://doi.org/10.3389/2Fsoc.2019.00066).
- [10] International Organization for Migration. (2023). *Ukraine – Internal displacement Report – General population survey round 12 (16-23 January 2023)*. Retrieved from <https://dtm.iom.int/reports/ukraine-internal-displacement-report-general-population-survey-round-12-16-23-january-2023>.
- [11] Jia, N., Molloy, R., Smith, C.L., & Wozniak, A. (2022). The economics of internal migration: Advances and policy questions. *Journal of Economic Literature*, 61(1), 144-180. doi: [10.1257/jel.20211623](https://doi.org/10.1257/jel.20211623).
- [12] King, R., Skeldon, R., & Vullnetari, J. (2008). *Internal and international migration: Bridging the theoretical divide*. Brighton: University of Sussex.
- [13] Kulchytskyi, T.R. (2019). Legal guarantees for rights of internally displaced persons: Theoretical-legal analysis. *Legal Scientific Electronic Journal*, 6, 195-199. doi: [10.32782/2524-0374/2019-6/45](https://doi.org/10.32782/2524-0374/2019-6/45).
- [14] Kupiszewski, M., Drbohlav, D., Rees, P., & Durham, H. (1999). Internal migration and regional population dynamics – Czech Republic in the context of European trends. *Geografie*, 104(2), 89-105. doi: [10.37040/geografie1999104020089](https://doi.org/10.37040/geografie1999104020089).
- [15] Law of Ukraine No. 1706 “On Ensuring the Rights and Freedoms of Internally Displaced Persons”. (2023, August). Retrieved from <https://zakon.rada.gov.ua/go/1706-VII>.
- [16] Leaders' Summit on Refugees. (2016). Retrieved from <https://www.unhcr.org/fr-fr/sites/fr-fr/files/legacy-pdf/58526bb24.pdf>.
- [17] Lohvynova, M.O. (2019). Internally displaced persons as a category of forced migrants: Concept and signs. *Scientific Journal of Kherson State University*, 11, 44-50. doi: [10.32999/ksu2413-7391/2019-11-6](https://doi.org/10.32999/ksu2413-7391/2019-11-6).
- [18] Miranda-González, A., Aref, S., Theile, T., & Zagheni, E. (2020). Scholarly migration within Mexico: Analyzing internal migration among researchers using Scopus longitudinal bibliometric data. *EPJ Data Science*, 9, article number 34. doi: [10.1140/epjds/s13688-020-00252-9](https://doi.org/10.1140/epjds/s13688-020-00252-9).
- [19] Monras, J. (2022). Joan Monras discussion of: Unsafe jobs. *Economic Policy*, 37(110), 273-274. doi: [10.1093/epolic/eiac030](https://doi.org/10.1093/epolic/eiac030).
- [20] Oh, S.-A. (2019). Internal migration in Myanmar: Patterns, benefits and challenges. *Perspective*, 2019(98). Retrieved from https://www.iseas.edu.sg/images/pdf/ISEAS_Perspective_2019_98.pdf.
- [21] Order of the Cabinet of Ministers of Ukraine No. 312-r “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”. (2023, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/312-2023-%D1%80#Text>.
- [22] Order of the Cabinet of Ministers of Ukraine No. 482-r “On the Approval of the State Migration Policy Strategy of Ukraine for the Period until 2025”. (2017, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/482-2017-p#Text>.
- [23] Pardede, E.L., McCann, P., & Venhorst, V.A. (2020). Internal migration in Indonesia: New insights from longitudinal data. *Asian Population Studies*, 16(3), 287-309. doi: [10.1080/17441730.2020.1774139](https://doi.org/10.1080/17441730.2020.1774139).
- [24] Piyapromdee, S. (2021). The impact of immigration on wages, internal migration, and welfare. *The Review of Economic Studies*, 88(1), 406-453. doi: [10.1093/restud/rdaa029](https://doi.org/10.1093/restud/rdaa029).
- [25] Shulzhenko, I.V. (2020). Legal guarantees for scientific and pedagogical workers containing status of internally displaced person. *Constitutional State*, 40, 133-140. doi: [10.18524/2411-2054.2020.40.217605](https://doi.org/10.18524/2411-2054.2020.40.217605).
- [26] The Ukrainian refugee crisis: Important historical context for the current situation. (2023). Retrieved from <https://www.peopleinneed.net/the-ukrainian-refugee-crisis-providing-important-historical-context-for-the-current-situation-9539gp>.
- [27] Thomas, M.J. (2019). Employment, education, and family: Revealing the motives behind internal migration in Great Britain. *Population, Space and Place*, 25(4), article number e2233. doi: [10.1002/psp.2233](https://doi.org/10.1002/psp.2233).
- [28] Tsybalytyi, T., & Blashchak, A. (2019). Legal status of internally displaced persons in Ukraine. *Actual Problems of Jurisprudence*, 4(20), 126-130. doi: [10.35774/app2019.04.126](https://doi.org/10.35774/app2019.04.126).
- [29] Universal Declaration of Human Rights. (1948, December). Retrieved from <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.
- [30] von Berlepsch, V., & Rodríguez-Pose, A. (2021). The missing ingredient: Distance. Internal migration and its long-term economic impact in the United States. *Journal of Ethnic and Migration Studies*, 47(9), 2198-2217. doi: [10.1080/1369183X.2019.1567303](https://doi.org/10.1080/1369183X.2019.1567303).
- [31] Voznyak, H., Mulska, O., Druhov, O., Patytska, K., & Tymeckho, I. (2023). Internal migration during the war in Ukraine: Recent challenges and Problems. *Problems and Perspectives in Management*, 21(1), 312-325. doi: [10.21511/ppm.21\(1\).2023.27](https://doi.org/10.21511/ppm.21(1).2023.27).
- [32] West, H., Than, M., Win, T., Oo, K.T., Khaing, K., Aye, T.T., Yi, S.M., Myo, S.Y., Toe, S.Y., Milkowska-Shibata, M., Ringstad, K., Meng, C., & Shibata, T. (2021). Internal migration as a social determinant of occupational health and wash access in Myanmar. *Annals of Global Health*, 87(1), 108. doi: [10.5334/aogh.3381](https://doi.org/10.5334/aogh.3381).

Внутрішня міграція та переміщені особи в Україні: політика управління та захист адміністративними судами

Олена Анатоліївна Мілієнко

Доктор юридичних наук, доцент
Донецький національний університет імені Василя Стуса
21021, вул. 600-річчя, 21, м. Вінниця, Україна
<https://orcid.org/0000-0003-0389-7821>

Анотація. Актуальність дослідження полягає в тому, що Україна перебуває в стані військового конфлікту, що спричинило збільшення кількості внутрішніх мігрантів, а також необхідність оновити чинне законодавство для врегулювання їхнього статусу відповідно до нових реалій життя. Метою дослідження було вивчення основних положень державної політики щодо внутрішніх мігрантів в Україні, основ правового регулювання статусу цієї категорії населення, визначення потенціалу та наслідків внутрішньої міграції для повоєнної відбудови України, а також тенденцій її розвитку та причин поширення на сучасному етапі, виокремлення особливостей внутрішньої міграції на основі проведеного аналізу. Відповідно до поставленої мети, завданням дослідження було вивчення загальних положень щодо вирішення спорів в Україні про захист прав і свобод внутрішніх мігрантів в аспекті адміністративно-процесуального права. Для досягнення поставленої мети та завдань під час дослідження використовувалися загальнонаукові (аналіз, синтез, догматичний, діалектичний) та спеціальні методи (формально-логічний, правової герменевтики). Крім методів наукового пізнання теоретичного спрямування, використовувалися емпіричні методи дослідження (опис, порівняння). Результатом дослідження стало обґрунтування положення про те, що аналіз загальної динаміки правового регулювання адміністративної відповідальності за порушення міграційного законодавства свідчить про наявність двох найбільш поширених тенденцій: посилення покарань за правопорушення в умовах збройної агресії проти України, а також систематична криміналізація діянь, збільшення кількості адміністративних правопорушень і злочинів. Висновком дослідження стала аргументація позиції, що внутрішня міграція в Україні на сучасному етапі має гібридний характер, зумовлений сукупністю чинників різного спрямування, поєднанням воєнних, економічних та соціальних факторів, що має бути враховано в реформуванні політики державного управління в зазначеній сфері. Практичне значення дослідження полягає в тому, що наразі в Україні триває військовий конфлікт, який спричиняє складні процеси внутрішньої міграції, а його результати є ефективними для використання в розробці практичних рекомендацій щодо оновлення законодавства в зазначеній сфері з метою зменшення або усунення негативних наслідків, які можуть бути спричинені внутрішнім переміщенням населення

Ключові слова: державне управління; органи виконавчої влади; військовий конфлікт; процеси переміщення; правові гарантії