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RIGHTS AND FREEDOMS OF THE MAN AND THE CITIZEN ON TEMPORARY OCCUPIED TERRITORIES: MAJOR VIOLATIONS AND PROTECTION MECHANISMS

Лариса Наливайко. ПРАВА І СВОБОДИ ЛЮДИНИ ТА ГРОМАДЯНИНА НА ТИМЧАСОВО ОКУПОВАНИХ ТЕРИТОРІЯХ: ОСНОВНІ ПОРУШЕННЯ ТА МЕХАНІЗМИ ЗАХИСТУ. Статтю присвячено визначенню основних порушень у сфері прав і свобод людини і громадянина на тимчасово окупованих територіях та визначенню механізмів їх захисту. Досліджено та систематизовано чинне законодавства України з питань визначення правового статусу особи на тимчасово окупованих територіях України. Обґрунтовано масове порушення прав і свобод людини та громадянина на тимчасово окупованих територіях.

Визначено, що найбільшого порушення зазнали особисті, економічні, соціальні та культурні права громадян. Проведено детальний аналіз порушень цих прав на тимчасово окупованих територіях. Наголошено, що перелік прав і свобод людини та громадянина, що систематично обмежуються чи порушуються, може бути розширений через збройну агресію РФ. Досліджено інструменти захисту прав людини на тимчасово окупованих територіях. Визначено місце і роль міжнародного співробітництва у захисті прав і свобод людини і громадянина на тимчасово окупованих територіях. Акцентовано увагу на необхідності застосування комплексного підходу у механізмі захисту прав людини на тимчасово окупованих територіях для досягнення найбільш дієвих результатів.

Ключові слова: воєнний стан, збройна агресія, тимчасово окуповані території, права та свободи людини і громадянина.

Relevance of the study. The problem of human rights protection is an integral aspect of the functioning of society and the state, which remains relevant at all stages of their existence. During this historical period, various tools were created and implemented to protect the rights and freedoms of a person and a citizen and to overcome their violations. However, as a result of the armed aggression of the Russian Federation, which began in 2014, and the full-scale military invasion on February 24, 2022, part of the territory of Ukraine came under temporary occupation. To solve national security issues in the conditions of martial law and ongoing armed aggression, the state must systematically and effectively respond to all possible violations of the rights and freedoms of people and citizens living in temporarily occupied territories.

For the effective protection of human rights in the temporarily occupied territories of Ukraine, the legislator introduced into the national legislation a number of legal acts that have a direct impact on the protection of the rights and freedoms of people living in these territories. However, the temporarily occupied territories are not under the control of Ukraine, so the mechanism of implementation of regulatory provisions in this area is complicated.

Recent publications review. Various aspects of the protection of human and citizen rights and freedoms were studied by: V. Bukach, S. Hrytskevich, V. Demydenko, N. Zadorozhnyia, N. Kaminska, A. Kolodiy, L. Nalyvaiko, O. Petryshyn, V. Lutkovska, O. Martselyak, A. Oliynyk, B. Parakhovskiy, V. Seryogin, V. Tatsii, G. Yavorska and others.

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Individual issues of human rights in the temporarily occupied territories were studied by: L. Varunts, A. Voytsikhovskiy, N. Kaminska, K. Katerynychuk, K. Koval, O. Koryagina, I. Krytsak, O. Radchenko, O. Reznikova, O. Ilyashko, A. Palyukh, O. Slavna, N. Shaptala, V. Franchuk and others.

The article's objective is a theoretical and legal description of the main violations and mechanisms for the protection of human and citizen rights and freedoms in the temporarily occupied territories during martial law and in the post-war period.

Discussion. Within the framework of the study, it is important to determine the spatial limits of the temporary occupation of the territories of the national jurisdiction of Ukraine. According to the current legislation, the temporarily occupied territories include the following: land territory within the boundaries of the Autonomous Republic of Crimea and the city of Sevastopol, separate districts, cities, towns and villages of Donetsk, Zhytomyr, Zaporizhzhya, Kyiv, Luhansk, Mykolaiv, Sumy, Kharkiv, Kherson, Chernihiv regions, internal waters and internal sea waters of adjacent territories, the territorial sea of Ukraine around the Crimean Peninsula, the subsoil under these territories and the air space above them, as well as other land territories, internal sea waters and the territorial sea of Ukraine [12, 13].

The Law of Ukraine "On ensuring the rights and freedoms of citizens and the legal regime in the temporarily occupied territory of Ukraine" defines that the territory of Ukraine, which is currently under the temporary occupation of the Russian Federation, is an inseparable part of the territory of Ukraine [12]. According to the provisions of the Law, the temporarily occupied territory belongs to a category with a special legal status, which determines a specific legal regime for this space, which provides for a special procedure for ensuring the rights and freedoms of a person and a citizen in this territory.

The Constitution and laws of Ukraine, as well as international treaties ratified by the Verkhovna Rada of Ukraine, apply to the temporarily occupied territories. Thus, the laws of Ukraine "On the state border of Ukraine", "On the Armed Forces of Ukraine", "On citizenship of Ukraine", "On the legal status of foreigners and persons without citizenship", "On ensuring the rights and freedoms of citizens and the legal regime in the temporarily occupied territory of Ukraine", "On national security of Ukraine", "On compensation for damage and destruction of certain categories of immovable property as a result of hostilities, acts of terrorism, sabotage, caused by the armed aggression of the Russian Federation against Ukraine", "On the main principles of state policy in the sphere of the establishment of Ukrainian national and civil identity", etc.

In addition, human rights in the temporarily occupied territory are protected by the norms of international law contained in the Universal Declaration of Human Rights; International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; Conventions against torture and other cruel, inhuman or discriminatory treatment or punishment; Convention on the elimination of all forms of discrimination against women; Conventions on the rights of people with disabilities; Conventions on the rights of the child; Resolutions of the UN General Assembly "Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)", etc. [7, p. 15]. Despite this, ensuring the rights and freedoms of a person and a citizen, enshrined in legislation, becomes impossible due to the fact that citizens are under the occupation of a terrorist country that sets its own norms.

In the context of the temporary occupation of the territory, the problem of ensuring the rights and freedoms of the population of this region is extremely important. The list of rights and freedoms of a citizen enshrined in the Constitution of Ukraine is widely recognized and defines the strategic tasks of the state aimed at the effective implementation of these rights and the creation of effective mechanisms for their protection. Human rights and freedoms, including those existing in temporarily occupied territories, are an indispensable component of the constitutional rights and freedoms of a citizen [1, p. 57; 8]. Given the significant and systematic violations of the norms of national legislation and international treaties in this area by the Russian Federation, the main task of our state is to develop an effective toolkit to protect the rights and freedoms of people and citizens under temporary occupation.

In order to develop mechanisms for the protection of rights and freedoms that meet the requirements of the time, it is necessary to investigate the rights and freedoms that continue to be systematically violated in these territories.

The studies conducted by national and international human rights organizations, determined that the personal, economic, social and cultural rights of citizens were the most violated [2, 5, 6, 16]. For the objectivity of the research, we emphasize that today the territories

of Ukraine temporarily occupied by the Russian Federation remain restricted for access by national and international institutions and organizations that investigate the situation with human rights, therefore the data given in the reporting documents of these institutions may not contain all the violations experienced by the residents of these territories.

Among *the personal rights and freedoms of a person and a citizen*, the most violated are the right to life, freedom and personal integrity, freedom of movement and free choice of place of residence, etc. [18]. In particular, in the temporarily occupied territories, civilians are killed by the Armed Forces of the Russian Federation through extrajudicial executions, attacks on individuals; enforced disappearances and arbitrary detentions of civilians; imprisonment; sexual violence; the transfer of civilians, including children and adults from social care facilities, adults from pretrial detention centers and penitentiary institutions, and unaccompanied children, from the occupied parts of Donetsk, Kharkiv, Kherson, Kyiv, Odesa, and Zaporizhzhia regions to the Russian Federation, etc. [5]. Thus, Art. 27, 29, 33 of the Constitution of Ukraine, as well as Art. 3, 9, 13 of the Universal Declaration of Human Rights, Art. 6, 7, 9 of the International Covenant on Civil and Political Rights, Art. 8, 16 of the Convention on the Legal Status of Migrant Workers and Members of Their Families of the Commonwealth of Independent States, etc.

The economic rights and freedoms of a person and a citizen, which continue to be systematically violated in the temporarily occupied territories, include: the right to entrepreneurial activity, the right to work, and the right to property [10]. Some violations of economic rights include illegal privatization; destruction and damage to property; forced redistribution of property; violation of intellectual property rights; restriction of access to own property; forced labor; discrimination in the workplace; unfair working conditions; restriction of professional freedom; forced resettlement and transfer of workers; forced seizure of enterprises and objects of business activity; illegal confiscation of property, including equipment and assets of enterprises; limiting access to resources and markets, corruption, etc. [17].

The problem of human rights protection is an integral aspect of the functioning of society and the state, which remains relevant at all stages of their existence. During this historical period, various tools were created and implemented to protect the rights and freedoms of a person and a citizen and to overcome their violations. However, as a result of the armed aggression of the Russian Federation, which began in 2014, and the full-scale military invasion on February 24, 2022, part of the territory of Ukraine came under temporary occupation. To solve national security issues in the conditions of martial law and ongoing armed aggression, the state must systematically and effectively respond to all possible violations of the rights and freedoms of people and citizens living in temporarily occupied territories. Thus, there is a violation of Art. 42, 43 of the Constitution of Ukraine, as well as Art. 17 of the Universal Declaration of Human Rights, Art. 6 of the International Covenant on Economic, Social and Cultural Rights, Art. 1 of Protocol No. 1 of the European Convention on the Protection of Human Rights and Fundamental Freedoms, etc.

Among *the social rights and freedoms of a person and a citizen*, the most violated were: the right to social protection, a sufficient standard of living for oneself and one's family, health care, medical assistance and medical insurance [18]. Thus, the violation of these rights is manifested in the following: denial of access to social services; changes in the social security system, which leads to a reduction or denial of payments of social benefits, pensions or other types of social assistance; discrimination in the provision of social services on the basis of political beliefs, ethnic origin, etc.; limitation of social guarantees for vulnerable population groups; introduction of non-transparent tax burdens and regulations; restriction of access to medical institutions, due to blockade or other restrictive measures; termination of the supply of necessary medical drugs and equipment due to transport or financial restrictions; delays in providing emergency medical care, etc. [9; 15]. Thus, Art. 46-49 of the Constitution of Ukraine, as well as Art. 22, 25 of the Universal Declaration of Human Rights, Art. 6-12 of the International Covenant on Economic, Social and Cultural Rights, Art. 24, 27 of the Convention on the Rights of the Child, Art. 25, 26 of the International Convention on the Rights of Persons with Disabilities, etc.

The cultural rights and freedoms of a person and a citizen violated in the temporarily occupied territories include the right to education, freedom of cultural, scientific and creative activity [5]. Violations in this area occur by limiting physical access to educational institutions for the local population; politicization of the educational process; decrease in financing and support of educational institutions; limitation of higher education opportunities due to the introduction of

administrative barriers; prohibitions or restrictions on the expression of one's own cultural identity or creative expression; persecution and detention of representatives of the cultural and scientific elite because of their creative or scientific activities; removal or destruction of objects of cultural heritage, museums, architectural monuments; forced introduction of another language in cultural, scientific and creative spheres; bans or restrictions on holding cultural events, exhibitions, conferences, etc. [14]. Thus, Art. 53, 54 of the Constitution of Ukraine, as well as Art. 27 of the Universal Declaration of Human Rights, Art. 15 of the International Covenant on Economic, Social and Cultural Rights, Art. 16 of the Additional Protocol to the Geneva Conventions on the Protection of Victims of Uncontrolled Territories, etc. Since the above groups of rights and freedoms are fundamental and indisputable, their violation requires careful study and response of the international community.

Due to the ongoing military operations in Ukraine, the list of human and citizen rights and freedoms that are systematically restricted or violated by the Russian Federation may be expanded. One of the latest measures aimed at ensuring the protection of human rights in the temporarily occupied territories is the use of electronic messages through the Diya application. This electronic service can be an effective tool for providing assistance to internally displaced persons affected by conflict and property damage. Within this service, it is possible to submit an application and receive compensation for documented damages. This service is addressed to persons living in the temporarily occupied territories of Ukraine, giving them the opportunity to restore their property and improve their living conditions. It is important to note that the compensation mechanism becomes effective only after the deoccupation of the specified territories. This shows the importance of resolving the conflict and restoring control over the occupied regions for the full restoration of the rights and guarantees of Ukrainian citizens in these territories.

In addition, persons currently living in the temporarily occupied territories have the right to access free legal aid. Residents of these territories have the opportunity to take advantage of free secondary legal assistance by submitting applications for representation in court and drafting legal documents in cases related to the protection of violated, unrecognized or contested rights and freedoms in connection with the armed aggression of the Russian Federation [3].

Other areas of ensuring the rights of the population in the temporarily occupied territories are the protection of basic rights and freedoms, the creation of an effective mechanism for reunification with the families of children displaced from Ukraine to Belarus and the Russian Federation, taking measures to ensure the release of illegally detained persons, providing assistance in the restoration of violated rights of persons and citizens, provision of legal and humanitarian aid [11, p. 24]. In order to protect the rights of individuals in these territories, general measures may include active interaction between public authorities and institutions of civil society, which contributes to the creation of effective control mechanisms aimed at solving specific problems in the protection of rights and freedoms. In addition, an important component of ensuring human rights in temporarily occupied territories is guaranteeing access to humanitarian aid, medical rehabilitation and educational opportunities for internally displaced persons [4, p. 64]. Additionally, international cooperation and exchange of experience with states facing similar challenges can be an effective tool. Such an integrated approach can become the basis for creating a sustainable mechanism for the protection of human and citizen rights and freedoms in the temporarily occupied territories.

Conclusions. Based on the conducted research, we can draw the following conclusions. Today, the fundamental human and citizen rights are being systematically violated in the temporarily occupied territories. Thus, the personal rights and freedoms of a person and a citizen have been violated, in particular, the right to life, freedom and personal integrity, freedom of movement and free choice of place of residence; economic rights and freedoms of a person and a citizen, among which the most violated are the right to entrepreneurial activity, the right to work and the right to property; social rights and freedoms of a person and a citizen, in particular, the right to social protection, a sufficient standard of living for oneself and one's family, health care, medical assistance and medical insurance; cultural rights and freedoms of a person and a citizen, including the right to education, freedom of cultural, scientific and creative activities, etc.

In order to protect the rights of the population in the temporarily occupied territories, various measures are being considered. Among them, it is worth highlighting taking measures to release illegally detained persons, providing free legal aid; interaction between public authorities and institutions of civil society; guaranteeing access to humanitarian aid, medical rehabilitation

and educational opportunities for internally displaced persons. In addition, international cooperation and the creation of an international coalition for active support of the de-occupation process can be an effective tool. These strategic measures can contribute to both the protection of citizens' rights and the diplomatic isolation of the aggressor country in the future.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

References

1. Nalyvaiko L. R. Transparency as a democratic standard of the government functioning. *Evropský Politický a Právní Diskurs*. 2014. No. 1. Pp. 51-62.
2. Аналіз загроз національній безпеці у сфері внутрішньої політики (експертне опитування). *Національний інститут стратегічних досліджень*. 2023. URL : https://niss.gov.ua/sites/default/files/2023-07/ad_analiz-zagrozh_14072023.pdf.
3. Безоплатна правнича допомога для внутрішньо переміщених осіб. URL : <https://legalaid.gov.ua/novyny/bezoplatna-pravova-dopomoga-dlya-vnutrishnoperemishheny-osib-na-poltavshyni/>.
4. Джуган В.О. Проблеми захисту прав дітей під час воєнних дій в Україні. *Юридичний науковий електронний журнал*. 2022. № 8. С. 63-67.
5. Доповідь щодо ситуації з правами людини в Україні. 2023. URL : <https://www.ohchr.org/sites/default/files/documents/countries/ukraine/2023/23-03-24-Ukraine-35th-periodic-report-UA.pdf>.
6. Звіт про порушення та недотримання міжнародного гуманітарного права та права прав людини, воєнні злочини та злочини проти людяності, пов'язані з примусовим переміщенням та/або депортацією українських дітей до російської федерації. URL : https://www.osce.org/files/f/documents/0/1/546560_0.pdf.
7. Катеринчук К. В., Бортняк К. В. Проблеми захисту прав людини на тимчасово окупованих територіях. *Вчені записки ТНУ імені В.І. Вернадського. Серія: юридичні науки*. 2022. Том 33 (72). № 1-2. С. 14-18.
8. Корягіна А. М., Биндюк К. Г. Правові питання захисту прав людини в умовах окупації. 2020. URL : <http://dspace.onua.edu.ua/bitstream/handle/11300/18760/Корягіна>.
9. Наливайко І. Ефективність правового регулювання соціальних стандартів та гарантій: проблеми та перспективи. *Наукові перспективи*. 2023. № 7 (37). С. 494-509.
10. Огляд порушень прав людини, вчинених російською федерацією на окупованих територіях України (на основі відкритих даних). 2023. URL: <https://vostok-sos.org/oglyad-porushen-prav-lyudyny-vchynenyh-rosijskoju-federacziyeu-na-okupovanyh-terytoriyah-ukrayiny/>.
11. Половинкіна Р. Ю. Правовий статус громадянина на тимчасово окупованих територіях України. *Право та державне управління*. 2023 р. № 1. С. 22-26.
12. Про забезпечення прав і свобод громадян та правовий режим на тимчасово окупованій території України : Закон України від 15.04.2014 року № 1207-VII (зі змінами та доповн.). Відомості Верховної Ради України. 2014. № 26. Ст. 892.
13. Про затвердження Змін до Переліку територій, на яких ведуться (велися) бойові дії або тимчасово окупованих російською федерацією : наказ Міністерства з питань реінтеграції тимчасово окупованих територій України від 21.11.2023 року № 318. URL: <https://minre.gov.ua/2023/11/27/pro-zatverdzhennya-zmin-do-pereliku-terytorij-na-yakyh-vedutsya-velysya-bojovi-di-iy-abo-tymchasovo-okupovanyh-rosijskoju-federacziyeu-8/>.
14. Ситуація з правами людини в Україні внаслідок російської агресії : Резолюція Ради ООН з прав людини від 4 квітня 2023 р. URL: <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coiukraine/COI-ukraine-resolution-29-March-2023-UA.pdf>.
15. Соціальні права в Україні під час війни : звіт про оцінку потреб. Рада Європи. 2022. URL: <https://rm.coe.int/needs-assessment-ua-2/1680a9b408>.
16. Тематичний звіт Спеціальної моніторингової місії ОБСЄ в Україні «Свобода пересування через адміністративний кордон із Кримом». 21 червня 2015 р. URL : <http://www.osce.org/ukraine-smm/165691>.
17. Українська Гельсінська спілка з прав людини. URL : <https://www.helsinki.org.ua/activities/analitika/>.
18. Щорічна доповідь про стан додержання та захисту прав і свобод людини і громадянина в Україні за 2022 рік. URL : <https://ombudsman.gov.ua/report-2022/images/documents/annual-report-2022.pdf>.

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1. Nalyvaiko, L. R. (2014). Transparency as a Democratic Standard of the Government Functioning. *Evropský Politický a Právní Diskurs*. No. 1. Pp. 51-62.

2. Analiz zahroz natsional'nyy bezpetsi u sferi vnutrishn'oyi polityky (ekspertne opytuvannya) [Analysis of Threats to National Security in the Field of Internal Policy (Expert Survey)]. National

Institute for Strategic Studies. (2023). URL : https://niss.gov.ua/sites/default/files/2023-07/ad_analiz-zagroz_14072023.pdf. [in Ukr.].

3. Bezplatna pravnycha dopomoha dlya vnutrishn'о peremishchenykh osib [Legal Aid. Free Legal Aid for Internally Displaced Persons]. URL : <https://legalaid.gov.ua/novyny/bezoplatna-pravova-dopomoga-dlya-vnutrishnoperemishhenykh-osib-na-poltavshhyni/>. [in Ukr.].

4. Dzhugan, V. O. (2022). Problemy zakhystu prav ditey pid chas voyennykh diy v Ukraini [Problems of Protecting the Rights of Children during Wartime in Ukraine]. *Legal Scientific Electronic Journal*. No. 8. Pp. 63-67. [in Ukr.].

5. Dopovid' shchodo situatsiyi z pravamy lyudyny v Ukraini [Report on the Human Rights Situation in Ukraine]. (2023). URL : <https://www.ohchr.org/sites/default/files/documents/countries/ukraine/2023/23-03-24-Ukraine-35th-periodic-report-UA.pdf>. [in Ukr.].

6. Zvit pro porushennya ta nedotrymannya mizhnarodnoho humanitarnoho prava ta prava prav lyudyny, voyenni zlochyny ta zlochyny proty lyudyanosti, pov'yazani z prymusovym peremishchennyam ta/abo deportatsiyeyu ukraiyins'kykh ditey do rosiys'koyi federatsiyi [Report on violations and non-compliance with international humanitarian law and human rights law, war crimes and crimes against humanity related to the forced transfer and/or deportation of Ukrainian children to the russian federation]. (2023). URL : https://www.osce.org/files/f/documents/0/1/546560_0.pdf. [in Ukr.].

7. Katerynchuk, K. V. & Bortniak, K. V. (2022). Problemy zakhystu prav lyudyny na tymchasovo okupovanykh terytoriyakh [Problems of Human Rights Protection in Temporarily Occupied Territories]. *Scientific Notes of V.I. Vernadsky Taurida National University*. 33 (72). Pp. 14-18. [in Ukr.].

8. Koryahina, A. M. & Bindiuk, K. H. (2020). Pravovi pytannya zakhystu prav lyudyny v umovakh okupatsiyi [Legal Issues of Human Rights Protection in Occupation Conditions]. URL : <http://dspace.onua.edu.ua/bitstream/handle/11300/18760/Коряхина>. [in Ukr.].

9. Nalyvaiko, I. (2023). Efektyvnist' pravovoho rehulyuvannya sotsial'nykh standartiv ta harantiy: problemy ta perspektyvy [Efficiency of Legal Regulation of Social Standards and Guarantees: Problems and Prospects]. *Scientific Perspectives*. 7 (37). Pp. 494-509. [in Ukr.].

10. Ohlyad porushen' prav lyudyny, vchynenykh rosiys'koyu federatsiyeyu na okupovanykh terytoriyakh Ukrainy (na osnovi vidkrytykh danykh) [Overview of Human Rights Violations Committed by the russian federation in the Occupied Territories of Ukraine]. *Vostok SOS*. (2023). URL : <https://vostok-sos.org/oglyad-porushen-prav-lyudyny-vchynenykh-rosiyskoyu-federatsiyeyu-na-okupovanykh-terytoriyakh-ukrainy/>. [in Ukr.].

11. Polovinkina, R. Yu. (2023). Pravovyy status hromadyanyna na tymchasovo okupovanykh terytoriyakh Ukrainy [Legal Status of a Citizen in Temporarily Occupied Territories of Ukraine]. *Law and Public Administration*. No. 1. Pp. 22-26. [in Ukr.].

12. Pro zabezpechennya prav i svobod hromadyan ta pravovyy rezhym na tymchasovo okupovaniy terytoriyi Ukrainy : Zakon Ukrainy vid 15.04.2014 roku № 1207-VII (zi zminamy ta dopovn.) [On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine: Law of Ukraine dated April 15, 2014, No. 1207-VII]. (2014). *Official Bulletin of the Verkhovna Rada of Ukraine*. No. 26. Art. 892. [in Ukr.].

13. Pro zatverdzhennya Zmin do Pereliku terytoriy, na yakykh vedut'sya (velysya) boyovi diyi abo tymchasovo okupovanykh rosiys'koyu federatsiyeyu : Nakaz Ministerstva z pytan' reintehratsiyi tymchasovo okupovanykh terytoriy Ukrainy vid 21.11.2023 roku № 318 [On Approval of Changes to the List of Territories Where Hostilities or Temporarily Occupied by the russian federation: Order dated November 21, 2023, No. 318]. (2023). URL : <https://minre.gov.ua/2023/11/27/pro-zatverdzhennya-zmin-do-pereliku-terytorij-na-yakykh-vedutsya-velysya-bojovi-di-yi-abo-tymchasovo-okupovanykh-rosiyskoyu-federatsiyeyu-8/>. [in Ukr.].

14. Situatsiya z pravamy lyudyny v Ukraini vnaslidok rosiys'koyi ahresiyi : Rezolyutsiya Rady OON z prav lyudyny vid 4 kvitnya 2023 r. [Situation with Human Rights in Ukraine Due to russian Aggression: Resolution dated April 4, 2023]. (2023). URL : https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coiukraine/COI-ukraine-resolution-29-March-2023_UA.pdf.

15. Sotsial'ni prava v Ukraini pid chas viyny : zvit pro otsinku potreb [Social Rights in Ukraine During the War: Needs Assessment Report]. (2022). URL : <https://rm.coe.int/needs-assessment-ua-2/1680a9b408>. [in Ukr.].

16. Tematychnyy zvit Spetsial'noyi monitorynhovoyi misiyi OBSYE v Ukraini «Svoboda peresuvannya cherez administrativnyy kordon iz Krymom». 21 chervnya 2015 r. [Thematic Report "Freedom of Movement Across the Administrative Border with Crimea" dated June 21, 2015]. (2015). URL : <http://www.osce.org/ukraine-smm/165691>. [in Ukr.].

17. Ukrayins'ka Hel'sins'ka spilka z prav lyudyny [Ukrainian Helsinki Human Rights Union]. URL : <https://www.helsinki.org.ua/activities/analytika/>. [in Ukr.].

18. Shchorichna dopovid' pro stan doderzhannya ta zakhystu prav i svobod lyudyny i hromadyanyna v Ukraini za 2022 rik. [Annual Report on the Observance and Protection of Human and Citizen Rights in Ukraine for 2022]. URL : <https://ombudsman.gov.ua/report-2022/images/documents/annual-report-2022.pdf>. [in Ukr.].

ABSTRACT

This article focuses on the identification of primary infringements within the domain of human rights and freedoms in temporarily occupied territories, as well as the delineation of protective mechanisms. The study systematically examines the existing legislation in Ukraine concerning the determination of the legal status of individuals residing in these territories. Extensive evidence is provided to substantiate mass violations of human and citizen rights and freedoms in temporarily occupied areas, with a particular emphasis on the considerable transgressions against personal, economic, social, and cultural rights. A meticulous analysis of these rights' violations within these territories is conducted. Notably, the article underscores that the list of systematically restricted or violated rights and freedoms may be expanded due to the armed aggression of the Russian Federation. Furthermore, the study delves into the instruments available for safeguarding human rights in temporarily occupied territories.

It has been determined that, with the aim of addressing national security issues amid a state of war and persistent armed aggression, the state is obliged to systematically and efficiently respond to all potential infringements upon the rights and freedoms of individuals residing in temporarily occupied territories. A conclusion has been drawn that, for the effective safeguarding of human rights in the temporarily occupied territories of Ukraine, the legislator has incorporated a series of normative legal acts into the national legislative framework, exerting a direct influence on the protection of the rights and freedoms of individuals situated in these territories.

Nevertheless, the temporarily occupied territories remain beyond Ukraine's jurisdiction, rendering the implementation mechanism of normative provisions in this sphere intricate. It is posited that, in light of the substantial and systematic violations of national legislative norms and international treaties in this domain by the Russian Federation, Ukraine's primary task lies in the development of an efficacious toolkit for the protection of the rights and freedoms of individuals within the context of temporary occupation. Additionally, it determines the position and role of international cooperation in the protection of rights and freedoms for individuals and citizens in such territories. The article concludes by highlighting the imperative need for a comprehensive approach in the mechanism designed for protecting human rights in temporarily occupied territories to attain the most effective outcomes.

Keywords: *state of war, armed aggression, temporarily occupied territories, human rights and freedoms.*

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THE INFLUENCE OF TNCs ON THE STATE SOVEREIGNTY OF DEVELOPING COUNTRIES

Олена Марченко. ВПЛИВ ТНК НА ДЕРЖАВНИЙ СУВЕРЕНІТЕТ КРАЇН, ЩО РОЗВИВАЮТЬСЯ. У статті здійснено комплексний аналіз ролі сучасних транснаціональних компаній (ТНК) у формуванні соціально-економічної та геополітичної реальності інформаційного суспільства. Здатність ТНК швидко конвертувати значні матеріально-фінансові, правові, організаційні ресурси у політичний вплив задля отримання надприбутків актуалізує необхідність дослідження ступеню їх впливовості на традиційні інститути державної влади. З одного боку, мова йде про аналіз феномену ТНК в категоріальній площині влади, легітимності й суверенітету, з урахуванням системної взаємодії корпорацій з іншими акторами і суспільством в цілому. З іншого боку, попри усі економічні і соціальні перспективи розвитку, які відкриваються для держави,

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