

12. Про судовий збір: Закон України від 08.07.2011 № 3674-VI. URL: <https://zakon.rada.gov.ua/laws/main/3674-17#Text> (дата звернення: 05.01.2021).

13. Ухвала Біловодського міського суду Луганської області від 04.03.2019 у справі № 408/752/19-ц. ЄДРСР. 05.04.2019. URL: <http://reyestr.court.gov.ua/Review/80903661> (дата звернення: 24.12.2020).

14. Постанова колегії суддів Третьої судової палати Касаційного цивільного суду Верховного Суду від 20.11.2019 у справі № 243/12928/18. ЄДРСР. 09.12.2019. URL: <https://www.uacourt.org/registry/info/nevuznachena-kategoriya-2?document=86162337> (дата звернення: 24.11.2020).

15. *Світлана Пантюхіна, Наталія Грищенко*. Моніторинговий звіт “Дотримання права на доступ до правосуддя внутрішньо переміщених осіб та жителів тимчасово окупованих територій Донецької та Луганської областей URL: <https://jfp.org.ua/system/reports/files/137/uk.pdf> (дата звернення: 05.01.2021).

16. Постанова Верховного Суду від 22 жовтня 2018 року у справі № 235/2357/17, опублікована в Єдиному державному реєстрі судових рішень.

17. Круглий стіл “Розгляд судами справ, матеріали яких перебувають на невідконтрольних територіях та в окупованому Криму” (м. Київ, 27 вересня 2019 року). URL: <https://www.facebook.com/groups/ngoauu/permalink/1114216762301705/> (дата звернення: 10.01.2021).

REFERENCES

1. Universal Declaration of Human Rights: UN General Assembly Resolution 217 A (III) of December 10, 1948. Official Gazette of Ukraine of December 15, 2008. № 93. Art. 3103 [in Ukrainian].

2. Constitution of Ukraine: Law of Ukraine of June 28, 1996 No 254k / 96-VR. Bulletin of the Verkhovna Rada of Ukraine dated July 23, 1996 No 30. Art. 141 [in Ukrainian].

3. *Hnatovskyy, M.M.* Povaha do prav lyudyny v umovakh zbroynoho konfliktu v Ukrayini. “Respect for Human Rights in the Context of the Armed Conflict in Ukraine”. URL: https://newjustice.org.ua/wp-content/uploads/2017/09/Report_Respect-for-HR-in-Conflict_Gnatovskyy_UKR.pdf (Date of Application: 24.12.2020) [in Ukrainian].

4. *Bilous A.O., Pasterna A.O.* Spetsyfika porushennya prav lyudyny v umovakh viys'kovykh konfliktiv: postanovochno-kontseptual'nyy kharakter i osoblyvosti. The specifics of human rights violations in military conflicts: staging and conceptual nature and features. URL: http://nbuv.gov.ua/UJRN/Npmaupp_2016_4_6 (Date of Application: 27.12.2020). [in Ukrainian].

5. Order of the Chairman of the Supreme Specialized Court of Ukraine for Civil and Criminal Cases of 02.09.2014 № 27/0/3814. URL: www.sc.gov.ua/ua/rozporjadzhennja_vssu_pro_viznachennja_teritorialnoji_pidsudnosti_sprav.html (Date of Application: 27.12.2020). [in Ukrainian].

6. Judgment of the European Court of Human Rights in the case “Caesar and others v. Ukraine” of 13.02.2018. URL: <https://hudoc.echr.coe.int> (Date of Application: 05.01.2021). [in Ukrainian].

7. Resolution 2133 (2016). Remedies in cases of human rights violations in Ukrainian territories not under the control of the Ukrainian authorities / Parliamentary Assembly of the Council of Europe. 10/12/2016 URL: <https://rm.coe.int/16806ee72a> (Date of Application: 22.12.2020). [in Ukrainian].

8. Analitichni tablytsi shchodo stanu zdiysnennya pravosuddya za 2019 rik. Analytical tables on the state of justice for 2019 / Judiciary of Ukraine: website. URL: https://court.gov.ua/inshe/sudova_statystyka/analit_tabl_19 (Date of Application: 25.12.2020). [in Ukrainian].

9. Slov'yans'kyi mis'krayonnyy sud Donets'koyi oblasti pidvodyt' pidsumky svoeyi diyal'nosti za 2018 rik. Slavic City District Court of Donetsk region summarizes its activities for 2018. Judiciary of Ukraine: website. 02/01/2019 URL: <https://sl.dn.court.gov.ua/sud0544/pres-centr/news/639558/> (Date of Application: 22.12.2020). [in Ukrainian].

10. Do uvahy uchashnykiv spravy ta vidviduvachiv sudu. To the attention of the participants in the case and visitors to the court. Judiciary of Ukraine: website. 09/24/2018 URL: <https://tr.lg.court.gov.ua/sud1232/pres-centr/general/786980/> (Date of Application: 23.12.2020). [in Ukrainian].

11. Kruhlyy stil “Administratyvne sudochynstvo Ukrayiny: stan i vyklyky. Round table “Administrative Procedure of Ukraine: Status and Challenges”, (Kyiv, July 6, 2020). URL: https://supreme.court.gov.ua/userfiles/media/new_folder_for_uploads/supreme/Programa_stanom_na_03_07_2020.pdf. (Date of Application: 10.12.2020). [in Ukrainian].

12. On Court Fees: Law of Ukraine of 08.07.2011 No 3674-VI. URL: <https://zakon.rada.gov.ua/laws/main/3674-17#Text> (Date of Application: 05.01.2021) [in Ukrainian].

13. Ukhvala Bilovods'koho mis'koho sudu Luhans'koyi oblasti vid 04.03.2019 u spravi № 408/752/19-ts. YEDRSR. 05.04.2019. The Order of the Belovodsk City Court of the Luhansk region from 04.03.2019 in Case No 408/752/19-ts. YEDRSR. 04/05/2019. URL: <http://reyestr.court.gov.ua/Review/80903661> (Date of Application: 24.12.2020) [in Ukrainian].

14. Postanova kolehiyi suddiv Tret'oyi sudovoyi palaty Kasatsiynoho tsyvil'noho sudu Verkhovnoho Sudu vid 20.11.2019 u spravi № 243/12928/18. Resolution of the panel of judges of the Third Judicial Chamber of the Civil Court of Cassation of the Supreme Court of 20.11.2019 in Case No 243/12928/18. URL: <https://www.uacourt.openregister.info/nevyznachena-kategoriya-2?document=86162337> (Date of Application: 24.11.2020) [in Ukrainian].

15. Svitlana Pantyukhina, Nataliya Hrytsenko Monitorynhovyy zvit "Dotrymannya prava na dostup do pravosuddya vnutrishn'o peremishchenykh osib ta zhyteliv tymchasovo okupovanykh terytoriy Donets'koyi ta Luhans'koyi oblastey. "Observance of the Right to Access to Justice of Internally Displaced Persons and Residents of the Temporarily Occupied Territories of Donetsk and Luhansk Regions". URL: <https://jfp.org.ua/system/reports/files/137/uk.pdf> (application date: 05.01.2021) [in Ukrainian].

16. Resolution of the Supreme Court of October 22, 2018 in Case No 235/2357/17, published in the Unified State Register of Judgments [in Ukrainian].

17. Kruhlyy stil "Roz'hlyad sudamy sprav, materialy yakykh perebuvalyut' na nepidkontrol'nykh terytoriyakh ta v okupovanomu Krymu" (m. Kyiv, 27 veresnya 2019 roku). Round table "Consideration by Courts of Cases, the Materials of Which are in Uncontrolled Territories and in the Occupied Crimea" (Kyiv, September 27, 2019). URL: <https://www.facebook.com/groups/ngoauu/permalink/1114216762301705/> (Date of Application: 10.01.2021) [in Ukrainian].

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CERTAIN LEGAL AND ORGANIZATIONAL PROBLEMS OF ACCESS TO JUSTICE IN THE CONDITIONS OF ARMED CONFLICT IN THE EAST OF UKRAINE

The armed conflict in Donetsk and Luhansk oblasts has resulted in numerous casualties, destroyed houses, infrastructure, and hundreds of thousands of displaced people. The rights of those who remained in the territories not under the control of the Government of Ukraine and of migrants were significantly violated. In the context of armed conflicts, and above all open military confrontations, the problems of human rights and freedoms appear in a slightly different light than in peacetime, as human rights to a peaceful and secure life, freedom and personal integrity are violated. Therefore, there is a need to protect these rights in a lawful, fair court, and free, equal access for individuals to the justice system. The article analyzes international standards and Ukrainian legislation governing access to justice during armed conflict. The practice of their application and the obstacles that arise on the way to the application of these norms are revealed. The theoretical component in the definition of terms that are a kind of conflict is analyzed. The main barriers related to access

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to the justice system caused by the armed conflict in eastern Ukraine have been identified, namely: territorial remoteness of courts; financial inability to sue victims of the conflict; understaffing of the court staff, which leads to lengthy hearings and excessive workload of existing judges; unavailability of archives and other case materials located in uncontrolled territories; obstacles to the involvement of the parties and witnesses of the case. The article presents the case law of the European Court of Human Rights on restricting access to justice in connection with the transfer of territorial jurisdiction of cases from the temporarily occupied territories to courts in the territory controlled by the Ukrainian authorities, and analyzes the reports of the United Nations Human Rights Monitoring Mission rights to access to justice for internally displaced persons and residents of the temporarily occupied territories of Donetsk and Luhansk oblasts. Conclusions are made and proposals on this issue are given.

Keywords: human rights, justice, armed conflict, internally displaced persons, temporarily occupied territories, court.

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