

REFUGEES FROM AFGHANISTAN: PECULIARITIES OF THEIR LEGAL STATUS AND ADMINISTRATIVE PROCEDURE FOR RECOGNIZING THEM AS REFUGEES

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ABSTRACT

The authors of the article have analyzed the peculiarities of the legal status of refugees from Afghanistan in Ukraine. The peculiarities of the administrative procedure for the recognition of Afghan refugees in Ukraine have been characterized. The main international and national regulatory legal acts in the field of ensuring the rights of protection seekers, including those relating to the legal status of refugees and the administrative procedure for the recognition of Afghans as refugees in Ukraine, have been considered. The peculiarities of the legal status of refugees from Afghanistan and the administrative procedure for the recognition of Afghans as refugees in some countries of the world have been studied. The main problems of the legal status of refugees from Afghanistan and the administrative procedure for the recognition of Afghans as refugees have been presented. The readiness of Ukraine and other countries of the world to accept refugees from Afghanistan at the legislative level has been assessed. The situation with the rights of refugees from Afghanistan in Ukraine has been characterized.

It has been concluded that it is advisable to equalize the rights of protection seekers in Ukraine and a refugee in Ukraine at the legislative level in order to solve the problems of implementation of the rights of protection seekers in Ukraine. The necessity of adopting amendments in the legislation of Ukraine has been noted, stating that the omission by a protection seeker for valid reasons, the five-day period from the date of crossing the Ukrainian border is not a reason for refusing to recognize him/her as a refugee and does not indicate the absence of danger for him/her in the country of origin.

Keywords: Legal Status of Refugees, Refugee Rights, Refugee Obligations, A Protection Seeker, Administrative Procedure, Constitutional Human Rights, Human Rights, Administrative Claim, Administrative Proceeding, State Migration Service, International Convention, Positive State Obligations.

INTRODUCTION

Due to the dynamism of social relations in the world, the presence of wars and armed conflicts, a significant number of people are forced to seek protection in foreign countries. Recent events in Afghanistan related to the establishment of the Taliban power is a prime example. Afghans have been escaping from the country for many years, suffering from instability and conflicts. After the Taliban took control of Afghanistan and the capital Kabul, many people began to leave the country and go to Germany, France, Turkey, Italy, Ukraine

and other countries with the hope to get asylum there. However, so far the large majority of Afghans are unable to leave the country by usual routes. Thus, as early as in August 2021 evacuation flights with Ukrainians and Afghans started to depart from the capital of Afghanistan to Ukraine. After all, Ukraine has already received and continues to receive refugees from all over the world, including from Afghanistan.

Ukraine has ratified a number of international regulatory legislations in the sphere of promoting human rights, thereby assuming positive obligations. It is referred to the Convention relating to the Status of Refugees of 1951, ratified on 10 January 2002 (the United Nations, 1951); the Protocol relating to the Status of Refugees of 1967 ratified on 10 January 2002 (The United Nation General Assembly, 1967); Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, ratified on 17 July 1997 (Council of Europe, 1950); The United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, December 10, 1984, ratified by the Law of Ukraine on 26 January 1987 and 5 November 1998 (United Nation, 1984); The Universal Declaration of Human Rights, adopted on 10.12. 1948 (The United Nation General Assembly, 1948).

Also Ukraine has its own national legislation in this sphere - it is the Law of Ukraine "On Refugees and Persons in Need of Additional or Temporary Protection" of 8 July 2011 (Law of Ukraine, 2011). So, Ukraine has legal reasons for accepting refugees from any country of the world, including from Afghanistan. Therefore a foreigner seeking asylum may ask in Ukraine for protection, and this is his inalienable right (Teremetskyi et al., 2021). In this case the State Migration Service of Ukraine (hereinafter - the STS of Ukraine) has a corresponding obligation to check the information provided by the protection seeker and to adhere to the requirements of international and national legislation.

LITERATURE REVIEW

The main international regulatory legislations governing the status of refugees are the 1951 Convention relating to the Status of Refugees, ratified by Law of Ukraine No. 2942-III of 10 January 2002, which is interpreted in the 1951 Convention relating to the Status of Refugees (United Nations, 1951) and its 1967 Protocol (United Nations General Assembly, 1967), which are binding on national subjects of power, in particular by the fact of the provisions of the Agreement between the Government of Ukraine and the Office of the United Nations High Commissioner for Refugees of September 23, 1999, ratified by Law of Ukraine No. 1185-14 of October 21, 1999 (The Government of Ukraine and The Office of the United Nations High Commissioner (1996)); the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, ratified by Law of Ukraine No. 475/97-VR of July 17, 1997 (Council of Europe, 1950).

As for the Ukrainian legislation, the main regulatory legislations regulating the legal status of refugees are: Law of Ukraine "On Refugees or Persons in Need of Complementary Protection or Temporary Protection" No. 3671-VI dated from July 8, 2011 (Law of Ukraine, 2011); Rules for Examination of Applications and Execution of Documents Required for Decision on Recognition of Refugee or Persons in Need of Complementary Protection, Loss and Forfeiture of Refugee Status and Subsidiary Protection and Cancellation of Decision on Recognition of a Person as Refugee or a Person Requiring Subsidiary Protection approved by Order of the Ministry of Internal Affairs of Ukraine No. 649 dated from September 7, 2011 (Ministry of Internal Affairs of Ukraine, 2011).

Problems of the legal status of refugees and the administrative procedure for recognition persons as refugees have always received special attention. Thus, Vatamaniuk in her article "Regulatory legislation in the provision of social services to refugees in Spain" examined the conditions provided by EU countries for migrants. The article studied such issues as the provision of temporary housing for refugees and monetary assistance, employment opportunities and medical services and so on. Especially the services provided

by the Spanish government for refugees and for migrants without refugee status were fundamentally examined (Vatamanyuk, 2019). L.V. Orel, O.M. Kalashnik and others in the article “Realization of the Right to Life on the Materials of the Practice of the European Court of Human Rights” noted the need for the member countries of the Convention to pay special attention to the realization of the right to life of refugees as a particularly impressionable category of the population (Orel, 2020). K.B. Dymov in his work “International legal status of refugees in modern realities” noted that today the problem of protecting the rights and freedoms of refugees is one of the most pressing. Therefore, it is necessary to develop new effective ways to prevent migration and humanitarian crisis (Dymov, 2020).

MATERIALS AND METHODS

Methodological basis for this is a combination of general scientific and special legal methods of scientific knowledge. Thus, using the dialectical method the essence of the legal status of refugees from Afghanistan in Ukraine was revealed. The method of analysis allowed us to study the normative legal framework, achievements of scientists on the topic of research and identify contradictions and gaps in the legislation governing the procedure of recognition of a person as a refugee in Ukraine and other countries of the world. The comparative legal method was used in comparison with the administrative procedure for recognizing a person as a refugee in Ukraine and other countries of the world. While researching the provisions of national and foreign legislation, the historical-legal method was applied, and the formal-legal method was used in studying the powers of the Ukrainian Migration Service authorities. The method of theoretical-legal forecasting was applied in the formation of recommendations for solving problematic moments regarding the recognition of Afghans as refugees in Ukraine.

RESULTS

The Situation with Legal Status of Afghans in the World

The current tendency of the migration wave observed in the refugee crisis is changing annually. Therefore, the domestic political condition of recipient countries must constantly adapt to the new realities of international relations (Vatamanyuk, 2020). After the establishment of Taliban rule in Afghanistan in August 2021, many Afghans try to flee the country and seek asylum in the other countries in the world. While some countries have offered to provide asylum to Afghans, others have stated that they will not do so. This is due to many factors: lack of legal regulation of refugee status in some countries of the world lack of material capacity of the state to accept refugees; internal and foreign policy of the state and so on.

Thus, Iran has set up emergency tents for refugees in three of its provinces bordering on the Afghanistan. But top Iranian interior ministry officials have said that any Afghans who cross into Iranian territory “will be repatriated, only conditions will improve” (BBC News, 2021). Pakistan said in June 2021 that the country would close its border with Afghanistan if the Taliban came to power. However, during August-September 2021, several thousand Afghans already crossed the border to Pakistan and at least one border crossing point is open (BBC News, 2021). In Tajikistan, at least several hundred Afghans, including Afghan National Army soldiers, crossed the border into Tajikistan during the same period. In July 2021, Tajikistan said it was preparing to accept 100,000 refugees from Afghanistan (BBC News, 2021). In Uzbekistan till the middle of September 2021, about 1,500 Afghans crossed the Afghan-Uzbek border and became a camp (BBC News, 2021). The UK has announced plans to accept 20,000 Afghan refugees in the long term (BBC News, 2021). Under the plan, the government aims to allow 5,000 Afghans to settle in Britain within the first year, and to

give priority to women and children as well as religious and other communities most threatened by the Taliban. In early September 2021, \$500,000,000 was allocated for “the unexpected urgent needs of refugees and migrants, victims of conflict and others at risk due to the situation in Afghanistan, in particular applicants for special immigration visas” (BBC News, 2021). Canada says it will place 20,000 Afghans with priority for those threatened by the Taliban, particularly government officials and women leaders (BBC News, 2021). Australia says it will offer 3,000 places to Afghans escaping from their country in its humanitarian visa program. But these places will be allocated within the existing program and there will be no increase in the total number (BBC News, 2021). Northern Macedonia and Albania have said they will temporarily accept 450 and 300 refugees, respectively, at the request of the U.S. Refugees are expected to stay until the paperwork for U.S. immigration visas are processed (BBC News, 2021). Kosovo also plans to provide temporary asylum for refugees heading to the US, but did not specify the number. Uganda has agreed to accept 2,000 Afghan refugees. The East African nation has the largest number of refugees among African countries - and the third largest in the world (BBC News, 2021). All of these countries have ratified the 1951 Convention Relating to the Status of Refugees (United Nations, 1951) on Ukraine. They are therefore legally empowered to grant asylum to protection seekers and recognize them as refugees.

Officials in several EU countries say they are seeking to avoid a repeat of the 2015 migrant crisis, when there was populist criticism that large numbers of refugees were allowed to enter EU territory. Germany said it would accept some Afghans, but did not give specific numbers. France said Europe must “protect itself from significant waves of illegal migrants” from Afghanistan. The French president said France would “protect those who are most at risk” but added: “Europe cannot take the consequences of the current situation on its own”. (BBC News, 2021). Austria has ruled out accepting Afghan refugees. The country’s interior minister has advocated continued deportation of Afghan asylum seekers and lobbied for the establishment of “deportation centers” in countries neighboring Afghanistan when direct deportation to Afghanistan is not possible. Switzerland said it would not accept large groups of refugees coming directly from Afghanistan (BBC News, 2021).

Note that back in 2015, the European Commission proposed a system of measures to improve the European Union’s migration policy. First of all, a decision was taken to strengthen the EU presence in the world. This decision was supported by the 2015-2020 Action Plan against Migrant Smuggling, which sets out the stimulation of law enforcement and judicial activities, improvement of the collection and gathering of information on migrants, and strengthening of cooperation with non-EU countries to fight against illegal migration (Szymanska, 2017). Also, due to the growing threat of terrorism in the EU, regulations – the EU Travel Information and Authorization System (ETIAS) and the Entry-Exit System (EES) - were adopted. The EU Travel Information and Authorization System, used in the case of visa-free travel, is intended to find out on a case-by-case basis whether an immigrant poses a threat to the EU. The Entry-Exit System is designed to collect information on the entry or exit of immigrants and become a tool available to EU border services (Szymanska, 2017).

Turkey says its government will work with Pakistan to help stabilize Afghanistan and prevent a new wave of refugees heading to Turkey. The government has also intensified building of a wall on border with Iran to contain migrants (BBC News, 2021).

The EU and Turkey signed an agreement according to which illegal migrants who crossed the Greek-Turkish border will be expelled back to Turkey. Turkey, in turn, must implement any measures to prevent new sea or land routes for illegal migration from Turkey to the EU (European Commission, 2016).

Considering the huge numbers of immigrants crossing the EU border, state border authorities are unable to check basic information about those entering, accordingly, this has led to illegal migration (Mazur, 2015).

In 2017, EU migration policy intensified. At a summit held in Brussels on 19 October 2017, it was determined that the approach of EU member states and institutions to ensure full border control should be consolidated. At the same time, the European Council Conclusions on Migration state that it is ready to respond and suppress any attempts to cross borders illegally by EU Member States (European Council Conclusions on Migration, 2017). Spain wants to become a centre for refugees because of its domestic and foreign policies. If we review Spanish legislation, Spain ratified the Convention Relating to the Status of Refugees on July 22, 1978 (27 years after the 1951 Geneva Convention), the basis of international refugee law on which various refugee protection systems around the world are based. Also in the Spanish Constitution and the Asylum Act, the right to asylum is guaranteed (Vatamanyuk, 2019).

The Convention Relating to the Status of Refugees was ratified both in Spain and in most of the above mentioned states of the world, decided to accept refugees from Afghanistan. Thus, these countries are quite capable of accepting refugees at the legislative level. The legal status of refugees is enshrined in the national legislation of most of the above mentioned countries of the world.

Administrative Procedures for the Recognition of Afghans as Refugees in Ukraine

In Ukraine, protection seekers from Afghanistan have always been among the largest group of applicants. Ukraine, having ratified international normative legal acts and national legislation, is able to accept refugees from Afghanistan at the legislative level. First of all, the current Ukrainian legislation marks a clear procedure for recognizing a person as a refugee. This procedure is defined by the Law of Ukraine “On Refugees and Persons in Need of Complementary or Temporary Protection” (Law of Ukraine, 2011), and is detailed in the Order of the Ministry of Internal Affairs of Ukraine dated from September 7, 2011 No. 649 “On Approval of the Rules for examination of applications and preparation of documents necessary for solving the issue of refugee status or person in need of complementary protection, loss and deprivation of refugee status, and abolition of the decision on granting refugee status or person requiring complementary protection” (Ministry of Internal Affairs of Ukraine, 2011). These Rules determine the procedure of examination of applications in Ukraine and execution of documents necessary for resolution of the issue of recognition of a person as a refugee or a person in need of complementary protection, loss, deprivation of refugee status and subsidiary protection and cancellation of the decision on recognition of a person as a refugee or a person requiring complementary protection.

Ukraine establishes a clear deadline within which a person can apply to the Migration Service for recognition as a refugee. Thus, a person with the intention to be recognized as a refugee in Ukraine, who crossed the state border of Ukraine in the manner established by the legislation of Ukraine, must within five working days apply to the Migration Service with an application for recognition as a refugee or a person in need of complementary protection (Law of Ukraine, 2011).

The legislation of Ukraine also determines that a person with the intention to be recognized as a refugee in Ukraine, who illegally crossed the state border of Ukraine when entering Ukraine, should immediately apply to the Migration Service with an application for recognition as a refugee or a person in need of complementary protection (Law of Ukraine, 2011). The consequences of missing such deadlines are not established by the Ukrainian legislation. However, Migration Service employees often attribute such delays to the lack of danger for the protection-seeker in his/her country of origin.

Application for recognition of a person as a refugee may be submitted only in person or through a legal representative. Thus, an authorized official of a territorial body of the State Migration Service of Ukraine, approached in person by an individual who intends to be recognized as a refugee in Ukraine or his/her legal representative in cases stipulated by

Ukrainian legislation: a) establish the identity of the applicant; b) register the applicant in the register of persons wishing to apply for refugee recognition or person requiring subsidiary protection; c) inform the applicant, in a language he/she understands, about the conditions under which a person may be recognized as a refugee or a person in need of additional protection in Ukraine, about his/her rights and obligations, as well as the consequences of failure to comply with obligations; d) ensure that an interpreter is provided to the applicant, including through videoconferencing; e) find out the place of temporary stay (residence) of the applicant (actual address of residence in Ukraine); f) within one working day check the existence of conditions under which the applicant may be denied the application for recognition as a refugee or a person requiring additional protection; g) conduct fingerprinting of the applicant; g) enter the received information in the centralized information system; h) explain the procedure for seeking free legal aid in a language that the applicant understands (Law of Ukraine, 2011).

A decision to accept an application for refugee status is made by the territorial body of the State Migration Service of Ukraine relatively quickly – within the working day when the person concerned applied to the Migration Service. If there are no grounds for refusal to accept an application for refugee recognition, an authorized official of a territorial body of the State Migration Service of Ukraine takes the following steps for further consideration of an application from a protection seeker: a) provides an opportunity for an applicant personally or with a legal representative to draft an application for refugee recognition or a person who needs additional protection; b) registers an application for refugee recognition or a person who needs additional protection and submitted documents in a journal of the State Migration Service of Ukraine. c) acquaint the applicant or his/her legal representative against their own signature with the procedure for making decisions on their applications, the rights and obligations of the person in respect of whom the decision was made to issue documents to resolve the issue of recognition as a refugee or a person requiring additional protection; d) if necessary, send the applicant for an examination to establish age in the manner established by Ukrainian law; e) fills in a registration form for a person who has applied for recognition as a refugee or a person in need of complementary protection, and for his family members who have not reached the age of eighteen, or a child separated from the family on whose behalf the application for recognition as a refugee or a person, needs additional protection, filed by his legal representative; f) accepts documents from the applicant for safekeeping: a national passport or other identity document of the applicant, as well as documents that may be proof of the existence of conditions for recognition as a refugee or a person, requires additional protection, is issued with a receipt; g) draws up a personnel file according to the description of the documents in the applicant's personal file; h) adds to the case four photographs of the applicant and his family members under the age of eighteen, information about which is included in the application, as well as other documents provided for by law; i) appoints the date and time of the interview and communicates this information to the applicant and his legal representative (if any) against the signature in the personal file; j) fills in the information received to a centralized information system (Ministry of Internal Affairs of Ukraine, 2011). This stage of the administrative procedure for recognition a person as a refugee is not long enough in Ukraine.

After that, a specially authorized person in the Migration Service prepares an opinion on the possibility of drawing up documents for recognition of a person as a refugee. Based on this conclusion the territorial body of the State Migration Service of Ukraine makes one of the following decisions within the set time limit: a) about documents preparation to resolve the issue of recognition as a refugee or a person requiring additional protection; b) about refusal of documents preparation to resolve the issue of recognition as a refugee or a person requiring additional protection (Law of Ukraine, 2011). Such decisions of the Migration Service are issued by the order of the territorial body of the SMS of Ukraine. After that the administrative procedure proceeds to one of the following stages: administrative or judicial

appeal against the order or consideration of the issue of recognizing a person as a refugee by the SMS of Ukraine.

If it has been decided to issue documents to resolve the issue of recognition as a refugee or a person in need of additional protection, the authorized official of the territorial body of the SMS of Ukraine (the person who conducts the case): a) conduct interviews with the applicant or his/her legal representative to identify additional information necessary to assess the authenticity of the facts reported by the applicant or his/her legal representative when submitting the application; b) sends, in accordance with the established procedure, to the bodies of the Security Service of Ukraine an appropriate request to check the existence of circumstances due to which the applicant cannot be recognized as a refugee or a person who requires additional protection; c) if the applicant does not have identity documents, or if these documents are fake, sends the relevant materials, and, if necessary, the applicant to the bodies of the Security Service of Ukraine in order to identify the person; d) in case of doubts about the credibility of the information provided by the applicant, the need to establish the authenticity and validity of the documents submitted by him in accordance with the established procedure to the Security Service of Ukraine, other state authorities, local government bodies and citizens' associations can help to establish the reliability of the facts concerning the person, whose application is being considered; e) in the prescribed manner sends the applicant for a medical examination with an appropriate referral; f) submit all documents prepared and received by the territorial body of the SMS before the applicant's special notice while considering a statement on recognizing as a refugee, or a person needed additional protection, including the results of medical care; g) prepares a written conclusion on recognizing or refusing to recognize a person as a refugee or a person who needs additional protection (Ministry of Internal Affairs of Ukraine, 2011). This stage of administrative procedure for recognizing a person as a refugee is a protracted one in Ukraine.

If the SMS of Ukraine receives a special application form and a letter of notification from the territorial office of the SMS of Ukraine, all documents and materials that can be a proof of the presence of conditions for being recognized as a refugee will be reviewed and evaluated within a month.

While the decision to refuse or declare a person as a refugee is being made, the SMS of Ukraine has a wide range of powers. Thus, the SMS of Ukraine has the right to: a) request submission of additional information from the territorial SMS body that reviewed the application for being recognized as a refugee or a person who requires additional protection; b) in order to clarify the information contained in the application for being recognized as a refugee or as a person who requires subsidiary protection, or the documents in the personal file of the applicant, receive additional information that may be of particular importance for making a decision on the application; c) address the appropriate requests to the Ministry of Foreign Affairs of Ukraine, the Ministry of Internal Affairs, the Ukrainian Security Service, and other state authorities, local self-government bodies and associations of citizens in case of doubts about the validity of information, the need to establish the validity and authenticity of documents; d) return the file for further investigation to the territorial SMS office that reviewed the application for registration as a refugee or a person who requires complementary protection, on the condition that there is insufficient information for consideration of the case and taking a substantiated and unreasonable decision, the special case is not properly executed (Ministry of Internal Affairs of Ukraine, 2011). Thus, the SMS of Ukraine has the right, on the basis of that provision, to make a positive decision for the applicant, even if there is a negative opinion of the territorial agency of the SMS of Ukraine.

By the results of implementation of their powers, within a month from the date of the receipt of a special application form and a written opinion of the territorial body of the SMS of Ukraine, which examined the application, the SMS of Ukraine takes a decision on the status of the applicant as a refugee or as a person that requires subsidiary protection (refusal of the status as a refugee or a person that requires subsidiary protection). The period of taking

this decision may be extended by the Order of the SMS of Ukraine, but not more than three months (Law of Ukraine, 2011). When the SMS of Ukraine takes a decision about declaring a person as a refugee or a person that requires subsidiary protection, a responsible person of the territorial body of the SMS of Ukraine within seven working days from the day of taking a decision on the declaration of a refugee or a person that requires subsidiary protection, shall issue to any person who has reached the age of sixteen years a certificate of refugee or a certificate of a person who requires subsidiary protection, this is noted in the journal of registration of the issuance of the certificate of a stateless person or in the journal of registration of the certificate of the person who requires subsidiary protection (Law of Ukraine, 2011). Therefore, the administrative procedure for recognizing a person as a refugee in general is quite prolonged in Ukraine. However, it is clearly stipulated by domestic legislation.

If a person is denied the status of a refugee or a person requiring subsidiary protection, such denial can be argued before the administrative court in accordance with the provisions of the Code of Administrative Proceedings of Ukraine (Law of Ukraine, 2005). Court practice in disputes about the recognition of persons as refugees or persons in need of additional protection is described in many legal positions of the Supreme Court.

Peculiarities of the Legal Status of Afghans in Ukraine

While the issue of recognition of a person as a refugee in Ukraine is being resolved, protection seekers are issued a certificate of application for protection in Ukraine.

The Law of Ukraine “On Refugees and Persons in Need of Complementary or Temporary Protection” provides for the possibility for protection applicants and refugees to settle in Temporary Accommodation Centres (TACs). There are several of them in Ukraine: in Transcarpathian region (Mukachevo city, Perechyn city); Odesa region (Odesa); TACs in Kyiv region (Yagotyn city) (the SMS of Ukraine, 2021).

TAC is a place of temporary accommodation for persons who have applied for recognition as refugees or persons in need of additional protection, for whom a decision has been made to issue documents to resolve the issue of recognition as refugees or persons in need of additional protection; recognized as refugees or persons in need of additional protection; who have been refused by the Migration Service, however, they challenge the refusal in the SMS of Ukraine or in court.

Determination of places for temporary residence and referral of protection seekers and refugees to the TACS is carried out by territorial bodies of the State Migration Service of Ukraine.

There is a right to family reunification in Ukraine. If a person is recognized as a refugee, Ukrainian legislation provides for the possibility for close family members of a refugee to move to Ukraine.

Thus, the Art. 4 of the Law of Ukraine “On Refugees and Persons in Need of Complementary or Temporary Protection” notes that Ukraine contributes to the unity of families of refugees and persons in need of additional protection. Family members of a person recognized as a refugee in Ukraine or a person in need of additional protection in Ukraine have the right to enter the territory of Ukraine for the purpose of family reunification and to be recognized as refugees or persons in need of additional protection. In case refugees and persons in need of additional protection cannot provide official documentary evidence of family ties with their family members, other evidence shall be taken into account, which shall be assessed in accordance with the legislation of Ukraine. Refusal of family reunification cannot be based on the absence of documents proving family ties. Refugees and persons in need of additional protection can leave the territory of Ukraine without obstacles for the purpose of family reunification (Law of Ukraine, 2011).

Persons recognized as refugees or persons in need of additional protection enjoy the same rights and freedoms and have the same duties as citizens of Ukraine, except in cases established by the Constitution of Ukraine and laws of Ukraine, as well as international treaties, consent to which is granted by the Verkhovna Rada of Ukraine (Law of Ukraine, 1996).

An asylum-seeker recognized as a refugee or a person in need of complementary protection has the same rights as Ukrainian citizens to movement, free choice of place of residence, free abandonment of the territory of Ukraine, except for restrictions established by law; work; entrepreneurial activity not prohibited by law; health protection, medical care and health insurance; recreation; education; freedom of ideology and religion; sending individual or collective written appeals or personal appeals to public authorities, local self-government bodies, officials and officers of these bodies; possession, use and disposal of their property, the results of their intellectual and creative activity; appealing against decisions, actions or inaction of public authorities, local self-government bodies, officials and officers in court; appeal for protection of their rights to the Commissioner of the Verkhovna Rada of Ukraine; free legal assistance in the prescribed manner.

A person recognized as a refugee or a person in need of additional protection has the same rights as citizens of Ukraine in marriage and family relations.

A person recognized as a refugee or a person in need of additional protection has the right to monetary assistance, pension and other types of social security in the manner prescribed by the legislation of Ukraine and to the use of housing provided in the place of residence (Law of Ukraine, 2011).

The difference between the rights of refugees and Ukrainian citizens is that a refugee, as a foreigner, cannot be appointed to certain positions or engage in certain labor activities if, in accordance with Ukrainian legislation, the appointment to these positions or engaging in such activities is related to affiliation with Ukrainian citizenship; cannot elect and be elected to state and self-government bodies, or participate in referendums; foreigners do not apply to universal military duty, they do not perform military service in the Armed Forces of Ukraine and other military formations created in accordance with the legislation of Ukraine.

CONCLUSION

The establishment of Taliban authority in Afghanistan resulted in thousands of Afghans fleeing their country in search of asylum. The world is divided into three camps: countries that support and host refugees from Afghanistan; countries that support Afghans, but do not host refugees from Afghanistan; countries that have taken a neutral position. Ukraine belongs to the group of countries that support and host refugees from Afghanistan. However, most countries of the world cannot accept refugees from Afghanistan due to their inability to financially provide for their stay on the territory of their state.

Ukraine has a clear administrative procedure for recognition a person as a refugee. A protection seeker from Afghanistan, having a reasonable fear of becoming a victim of a long armed conflict and a systematic violation of human rights and, may submit a reasoned application for recognition as a refugee or a person requiring additional protection to the Migration Service in Ukraine. The Migration Service considers each application individually, in particular, it interviews the applicant, decides on the preparation of documents for the decision on recognition a person as a refugee, makes the necessary inquiries, checks the reliability of the information, and the Migration Service employee, who checks all this, issues an opinion, on the basis of which the SMS of Ukraine decides whether or not a person has been recognized as a refugee. However, there are certain problems faced by refugees from Afghanistan while undertaking this administrative procedure. First of all, due to the significant number of persons willing to apply for refugee status, the Migration Service is not able to accept applications within the deadline established by law. Therefore, the deadline for

such an administrative procedure can be delayed. Secondly, each application is examined individually so it is not known whether each Afghan protection seeker can convince a Migration Service officer that he/she has the Convention refugee indications. These problems can be solved by embracing changes to the law to state that failure by a protection seeker to comply with the five-day time limit from the day of crossing the Ukrainian border for valid reasons is not a ground for refusing refugee status or indicating that he/she is not in danger in the country of origin.

Ukraine has a clear definition of the legal status of refugees at the legislative level. Ukraine guarantees the rights of refugees at the same level as citizens of Ukraine, except in cases established by the Constitution of Ukraine and the laws of Ukraine, as well as international treaties, the consent to which is bound by the Verkhovna Rada of Ukraine. The problem today, however, is that the rights of a protection seeker (someone who is under administrative procedure) are far narrower than those of a refugee (someone whose administrative procedure is over, as he has already been recognized by the State as a refugee). Accordingly, a protection seeker in an administrative procedure cannot fully implement many rights, particularly the right to work, the right to marriage, the right to health care and some others. For solving these problems, it would be advisable to equalize the rights of a protection seeker in Ukraine with those of a refugee in Ukraine at the legislative level.

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