

Заключение. Таким образом, первоочередная цель изменения механизма конституционно-правового регулирования реализации права на медицинскую помощь состоит в расширении возможностей и условий, позволяющих каждому гражданину реализовать свое право на бесплатное лечение за счет государственных средств в порядке, установленном законом. Кроме того, в результате конституционной реформы граждане разделили бремя ответственности с государством за сохранение собственного здоровья, путем возложения на них заботы о сохранении своего здоровья.

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LEGAL PROTECTION OF MIGRANTS IN THE CONTEXT OF MIXED MIGRATION FLOWS IN EUROPE (2014–2018)

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One of the key manifestations of globalization is the increase in spatial mobility of the population, involving an increasing number of people in international migration processes. Thus, cross-border migration is growing worldwide. The growing mix of forced displacement and migration presents particular challenges for governments. Indeed, the migration motives and migration paths of refugees and migrants have long been difficult to distinguish, in part because asylum is also used for migration purposes. Many migrants try to obtain residence permits in destination countries by seeking asylum. As a consequence, the asylum system in the host countries is severely overloaded, as it was not designed for refugees of this amount. It is important to emphasize that attempts of categorical distinguishing of migration flows are directly related to legal approaches in their regulation.

Material and methods. The observations below are based on the study of scientific works in the field of legal regulation of international migration processes (L.A. Vasilyeva, E.V. Kiseleva, A.V. Pokhlebaeva, etc.). To analyze the collected material, the method of analysis, synthesis and comparative analysis was used.

Results and their discussion. Researchers-lawyers, such as L.A. Vasilyeva [1], C.V. Kiseleva [2], A.V. Pokhlebaeva [3], attempted to classify migration according to different criteria and develop its definition, thereby denoting the nature of migration with the following elements: legal status (legal and illegal migration), motives (voluntary and forced migration), term (permanent and seasonal migration), purpose (seeking asylum, obtaining refugee status, study, work, etc.), territorial direction (external and internal migration).

A.V. Pokhlebaeva believes that to understand the essence of the migration process, it is necessary to highlight the legal status of the migrant (legal or illegal). She notes that "... in classifying migration into these types, it should be borne in mind that legal migration is legal with: visa, granting of legal status, residence permit, as well as illegal migration has no such elements" [3, p. 4]. In its turn, L.A. Vasilyeva identifies five main migration flows: external

migration, internal migration, external labor migration, forced migration, illegal migration [1, pp. 42–44]. According to C.V. Kiseleva "...the most common classifications are the following: by territorial limit of implementation (domestic and international), by duration ((irrevocable, long-term, short-term (seasonal, pendulum, episodic)), by legality of implementation (legal and illegal)" [2, p. 33].

Along with the classical classification of migration in the modern world against the background of events in Europe in 2015, a new type of migration appeared, which the merger of several migration flows-legal, illegal, economic migration and refugees one powerful stream characterizes. These mixed movements (or mixed migration) have - into become an extremely acute and complex problem for European countries and have shown the inefficiency of existing mechanisms, both legal and institutional, aimed at the adequate regulation of migration processes.

According to UNHCR, the number of forcibly displaced persons reached 65,6 million by the end of 2016 [4]. As of 2017, 55% of refugees worldwide came from three countries: South Sudan, Afghanistan and Syria. Of all displaced persons, 17 % live in Europe. Since then, this influx, although declining, has nevertheless continued [4]. The number of asylum applications filed by Syrian refugees in European countries grew steadily between 2011 and 2017. According to Eurostat data in 2015 alone, more than 1, 25 million people applied to the EU for a refugee status. By December 2017, UNHCR had counted more than one million asylum applications in 37 European countries (including both and non-EU members) [4]. Thus, in 2018, there were 634700 applications for international protection in the EU. This is comparable to 728470 applications in 2017 and two times less than in 2016 (1, 3 million). In 2018, EU countries provided protection to more than 333 thousand asylum seekers, which is almost 40% less than in 2017. Almost one in three (29%) of them were from Syria, while Afghanistan (16%) and Iraq (7%) rounded out the top three. Of the 96100 Syrian citizens who received international protection in the EU, almost 70 % received it in Germany [5]. However, these figures alone are not able to provide a complete picture of the current migration processes. For example, they leave out the diversity of migration motives, as well as the mixing of migration flows and migration routes.

In order to monitor mixed migration flows, the mixed migration center was established in February 2018 (hereinafter -MMC Mixed Migration Centre) [6]. It is a global network consisting of six regional centers and a Central unit in St. Petersburg dedicated to data collection, research, analysis and policy development in the field of mixed migration. The MMC is a leading source of independent and high-quality data, research, analysis and expertise in mixed migration. The MMC seeks to deepen the understanding of mixed migration, the positive impact of global and regional migration policies, to inform with evidence-based responses to protect people in the migration process. The MMC focuses on human rights and the protection of all people.

In Europe, the migration center for mixed migration, as one of the regional centers, was established in February 2019 [7]. Its main activity is to collect data in Italy and Greece to survey refugees and migrants from Nigeria, Ivory Coast, Pakistan, Syria, Iraq and Afghanistan. Its aim is to expand data collection and analysis to cover other migration routes in Europe, both in the countries of first arrival and on other routes further within Europe.

The MMC gave a general definition of mixed migration, noting that it includes cross-border movements of people, including refugees fleeing persecution and conflict, victims of trafficking and people seeking a better life and opportunities. Driven by multiple factors, people in mixed streams have different legal status as well as different vulnerabilities. Although they are entitled to protection under international human rights law, they face numerous human rights violations along the way [8].

The problem of mixed flows in Europe is increasingly discussed by international organizations and in international forums, such as the UN General Assembly and the European Union, when discussing asylum and migration. However, it should be noted that in modern legal science there is no detailed study of international legal mechanisms for regulating mixed migration flows. The difficulty is that people moving in mixed migration have different goals. In particular, in the case of unregulated migration, the reasons for leaving the country of origin, i.e. the decision to migrate, are often not clearly distinguishable. For example, political persecution, violent conflict and human rights violations can put people on the run. But, economic crisis and, as a consequence, unemployment, poverty and lack of prospects can also force a person to leave their homeland to find a better or safer life elsewhere. In addition, natural disasters and the loss of natural resources necessary to maintain living standards, or in the broadest sense, climate change, in turn, can also be grounds for choosing to emigrate.

These different motives often make it difficult to differentiate between refugees who are forced to migrate and who are thus entitled to protection under international law, and immigrants in the broadest sense who migrate voluntarily and for economic reasons. Thus, both groups do not have a legal opportunity to immigrate to Europe, for example due to lack of financial resources or lack of documents. Accordingly, both groups use the same irregular routes, structures and networks in order to reach Europe. Often they even use the services of smugglers.

This form of migration not only entails risks for those involved but also poses serious problems for host countries. Despite all the similarities between refugees and immigrants with regard to migration routes and networks, and despite the difficulties in clearly identifying migration motives, there are indeed differing roles and powers for host countries: for example, EU countries are bound not only by international law to protect refugees but also by European and national law. Thus, as rightly pointed out by N.V. Karkanitsa, "... the correctness of the legal regulation of migration directly depends on its typology, and at the same time, the main purpose of the typology of migration in public policy is to create a tool for dividing the general category of migrants, in particular, the division of mixed flows of migrants into subgroups that can be managed separately" [9, p. 89].

In our opinion, the main problem of dividing mixed flows of migrants into subgroups is the lack of reliable data. Up-to-date data on migration flows are particularly important for tracking the dynamics of mixed migration. The statistics currently available is insufficient, as the exact volume of mixed migration and its trends over time are unknown. However, their availability could help in assessing the proportion of refugees in mixed migration flows. Moreover, the motives and paths of refugees and migrants are becoming increasingly difficult to differentiate, making it difficult to divide them into subgroups. However, differentiation is necessary from the point of view of migration policy.

Another problem is that all States that have signed the Geneva Convention relating to the status of refugees (1951) have an obligation to protect refugees. In contrast, they approach the issue of the admission of migrants and their admission to the labor market based on their own interests and the sovereign decision of the host country.

The above indicates the need to develop legal norms establishing the legal status of migrants. For this reason, the members of The United Nations, in the 2030 agenda for sustainable development, decided to "promote orderly, safe, legal and responsible migration and mobility of people, including through the implementation of planned and well-thought migration policies" [10]. Thus, based on the 2030 agenda for sustainable development, the UN Global Compact on safe, orderly and legal migration was developed, which deals with migrants and is a framework document. It notes "... refugees and migrants enjoy the same universal human rights and fundamental freedoms that must be respected, protected and exercised on a permanent basis. However, migrants and refugees are separate groups with different legal and regulatory instruments. Only refugees are entitled to specific international protection as defined by

international refugee law" [11]. To date, the UN Global compact on safe, orderly and legal migration is the first international mechanism of cooperation on migration, the application of which by interested States, regional and universal international organizations could solve the problem of mixed flows of refugees and migrants in Europe.

However, a number of European States (Hungary, Austria, Poland, Czech Republic, Slovakia, Italy, and Latvia) refused to sign this Treaty, citing a threat to the national interests and sovereignty of their countries, since migrants in general pose a huge economic and social risk to countries in general, and to the population in particular, especially in the issue of integration.

European migration policy in recent decades has been guided by the principle of "Europeanization of migration policy", which implies migration within Europe, but the current migration flows to Europe are directed from outside. Thus, the problem of population migration in modern Europe, which was called the "European migration crisis", which began in 2015, showed primarily ineffective legal mechanisms for regulating migration flows.

As new patterns of displacement emerge, including forms of displacement and forced migration that do not fall under international refugee law, it must be borne in mind that, in addition to refugees, there are other categories of persons who need international assistance and protection. The normative consolidation of the concepts of "migrant" and "migration" in international law would contribute to the solution of many issues related to the legal protection of migrants. At the same time, it is necessary to harmonize the legislation of European countries on the regulation of migration processes.

Conclusion. Monitoring the dynamics of mixed migration and obtaining reliable data, in assessing the share of refugees and migrants in mixed migration flows, is necessary to enhance the collection and analysis of data to cover other migration routes in Europe, both in the countries of first arrival and on other routes further within Europe. In this regard, improving EU cooperation with countries of origin and countries of transit is a key task. Refugee flows must be prevented as much as possible because they are a humanitarian disaster. On the contrary, voluntary migration is an important driver of development if it is managed on the basis of equitable agreements between countries of origin and host countries, and if the rights of migrants are respected.

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