

Art. 26–27 it was determined that the control is carried out by the Cabinet of Ministers, the Minister of Internal Affairs and within the limits of the council's competence (local councils, when carrying out control, do not interfere in its administrative, operative and investigative activities, etc.). Public control and forms of such control were not discussed in the mentioned Law, in contrast to the new Law "On the National Police" of 2015. The study defines the forms of control over the activities of law enforcement agencies", the researchers' approaches to the classification of general forms of public control are given, the signs are indicated such control. Attention is focused on the peculiarities of forms of public control over police activities. The approaches of various researchers to the classification of forms of public control over the activities of the National Police of Ukraine are presented. It is concluded that the form of public control over the activities of the National Police of Ukraine is an external expression of the control actions of institutions of civil society and individual citizens, which are legally enshrined. At the same time, it is pointed out the need for further development of the legal framework to improve the effectiveness of the implementation of forms of public control over police activities.

Keywords: *legal forms, non-legal forms, public information, reports, interaction with the public, citizen appeals.*

UDC 347.254

DOI: 10.31733/2078-3566-2022-6-28-36



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ENSURING THE RIGHT TO HOUSING OF INTERNALLY DISPLACED PERSONS: REGULATORY AND INSTITUTIONAL ASPECTS

Лариса Наливайко, Анна Коршун. Забезпечення права на житло внутрішньо переміщених осіб: нормативний та інституційний аспекти. Розкрито проблематику нормативних та інституційних аспектів забезпечення права на житло внутрішньо переміщених осіб. Наголошено, що задоволення потреби людини у житлі – важливе соціальне завдання. Реалізація права на житло серед ВПО є особливо необхідним.

Наголошено, що першочерговим завданням є розробка та прийняття законопроекту «Про реституцію/компенсацію зруйнованого житла та іншого майна внутрішньо переміщеним особам та іншим потерпілим особам». Держава та громадські організації мають активно розробляти та впроваджувати програми правової допомоги для підтримки переміщених осіб для подолання дискримінації та бар'єрів, з якими вони стикаються при доступі до житла під час переселення та в часі постконфлікту. Державні органи повинні вести детальну документацію (за можливості в умовах припинення бойових дій) щодо ситуації із житлом та майном внутрішньо переміщених осіб у той час, коли вони покинули свої будинки. Акцентовано, що державні та місцеві органи зобов'язані жорстко виконувати рішення стосовно житлових та майнових прав.

Підкреслено, що Україна має взяти на себе зобов'язання надати право реінтеграції вимушених переселенців. Потрібно встановити гнучкі та ефективні засоби правового захисту, що ґрунтуються на принципах прав людини. Проблеми житла слід вирішувати за допомогою ефективної інституційної координації. До постконфліктних програм із відновлення житлових та майнових прав внутрішньо переміщених осіб повинні залучатися різні державні установи.

Акцентовано, що для забезпечення успішного повернення житла чи землі потрібні

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інституційні зусилля державних установ, які завдяки спільним діям шляхом укладання угод або меморандумів могли б полегшити механізм та процес реституції для внутрішньо переміщених осіб. Механізм реституції житла повинен мати безкоштовний та безперешкодний характер, чітку процедуру. Існуючі документи на житло, навіть якщо вони не повні повинні бути розглянуті як докази про повернення житла. Державі необхідно створити належні компенсаційні системи. Позивач повинен отримати компенсацію у випадках, коли житла більше не існує, або коли особи свідомо і добровільно приймає компенсацію замість реституції.

Ключові слова: *внутрішньо переміщені особи, права і свободи, право на житло, інституційний механізм, механізм реституції житла, інституційна координація, органи державної влади, гарантії, належні компенсаційні системи, воєнний стан.*

Relevance of the study. Protection of human rights is a global task of every modern state, which is solved on an international and national scale. An essential measure of the democratic development of society and the state is the quality of ensuring the rights and freedoms of a person and a citizen. Human rights are one of the most important social values. Regardless of their will, people who have found themselves in difficult life circumstances – internally displaced persons – need special attention and the provision of rights and freedoms.

Russia's war against Ukraine has, for the first time, led to the number of people forced to leave their permanent residence exceeding 100 million worldwide (refugees and internally displaced persons). Therefore, the issue of the legal status of internally displaced persons contains various theoretical and practical problems and requires further comprehensive study and systematization of existing academic achievements and practical developments.

Recent publications review. It should be noted that sociologists, managers, lawyers, etc., paid attention to the problems of internal displacement in general and ensuring the rights of internally displaced persons. Among the dissertation works, the following should be cited: M. Kobets «Administrative and legal protection of the rights of internally displaced persons in Ukraine», 2016; K. Krokhmalova «Administrative and legal protection of the status of internally displaced persons in Ukraine», 2017; V. Mykhaylovskiy «Administrative and legal status of internally displaced persons in Ukraine», 2018; O. Sokolov «Civil legal protection of property rights of internally displaced persons», 2018; I. Basova «Internally displaced person as a subject of social security law», 2019; S. Bubnyak «Social well-being of internally displaced persons in modern Ukrainian society», 2020; E. Solovyov «Mechanisms of state regulation in the field of internal forced migration in Ukraine», 2020; N. Isaeva «Social-economic and cultural rights and freedoms of internally displaced persons and guarantees of their implementation: theoretical and legal characteristics», 2021; O. Kapinus «Peculiarities of state policy regarding internally displaced persons in of Ukraine», 2021, etc.

Considering the importance of public participation in the study of the legal status of internally displaced persons, it is appropriate to emphasize the research carried out within the framework of the functioning of the Educational and Scientific Laboratory of the Study of the Legal Status of Internally Displaced Persons and Ensuring Gender Equality of the Research Institute of State Construction and Local Self-Government of the National Academy of Legal Sciences of Ukraine. In addition to the fact that the scientists developed a number of legislative proposals, analytical projects were prepared, scientific works were also represented, in particular: L. Nalyvaiko, O. Chepik-Tregubenko «Ensuring the Electoral Rights of Internally Displaced Persons at Local Elections: Problems of Theory and Practice» [1], L. Nalyvaiko, A. Orieshkova «Internally Displaced Persons: Theoretical and Legal Aspects» [2], Nalyvaiko L., Korshun A. The right to housing of internally displaced persons: national practice and foreign experience [3], Chepik-Trehubenko O. etc. «Peculiarities of Realization of the International Mechanism for the Protection of the Rights of Victims of Armed Conflict in the East of Ukraine» [4], L. Nalyvaiko, O. Bochkovy, E. Minakova «Problems of implementing the powers of local self-government bodies on issues integration of internally displaced persons in conditions of decentralization of power» [5], O. Kulinich «Definition of the concept of «internally displaced person»: theoretical and legal discourse» [6] and many others. Considering the topicality of the issue, the fact that it has not only an essential doctrinal significance but also is characterized by practicality because the findings can be used to improve the current legislation and law enforcement in this area, to develop a mechanism for ensuring the rights and freedoms of internally displaced persons and prompted the authors to further comprehensive study of this scientific direction.

The research paper's objective is to identify problems and prospects in the field of ensuring the right to housing of internally displaced persons through the prism of regulatory

and institutional elements.

Discussion. Among the many rights that are violated every day against internally displaced people, the right to housing is essential because other rights requiring equal restitution, such as the right to health and education, are just as powerful as housing for humans because it is one of the most critical needs, where IDPs should have special rights and guarantees, precisely because of their vulnerability [7].

The full realization of the right to housing for the displaced population cannot happen in the short or medium term [8]. Therefore, it is necessary to develop different alternatives to solve the problem of the precarious housing situation of internally displaced persons, analyzing the various forms of secure tenure that can be provided, always with the perspective of transforming them into long-term solutions with sustainable capacity.

The first attempt to correct the state of implementation of the right to housing among internally displaced persons was the Resolution of the Cabinet of Ministers of Ukraine «On the approval of the Comprehensive State Program for the support, social adaptation, and reintegration of citizens of Ukraine who have moved from the temporarily occupied territory of Ukraine and areas of anti-terrorist operations to other regions of Ukraine. For the period until 2017».

The purpose of the Program was to solve the main problems of internally displaced persons and reduce the level of social tension among them and in society; promotion of integration and social adaptation of such persons at their new place of residence; assist in ensuring the creation of appropriate conditions for life activities, rights, and realization of potential; provision of social, medical, psychological and material support; creation of prerequisites for compensation for property (material) and moral damage caused to them; creation of favorable conditions for voluntary return to the places of the previous residence (provided the complete actual cessation of hostilities in the territories where the state authorities temporarily do not exercise their powers).

The next step was the presentation of the new «Strategy for the Integration of Internally Displaced Persons and the Implementation of Long-Term Decisions on Internal Displacement for the Period Until 2020» by the Ministry of Temporarily Occupied Territories and Internally Displaced Persons [9].

Presented by the Ministry of Temporarily Occupied Territories and Internally Displaced Persons within the framework of the forum, the Strategy for the Integration of Internally Displaced Persons and the Implementation of Long-Term Decisions on Internal Displacement until 2020 should replace the «Comprehensive State Program on Support, Social Adaptation and Reintegration of Citizens of Ukraine who have resettled» from the temporarily occupied territory of Ukraine and areas of anti-terrorist operation to other regions of Ukraine, for the period until 2017», approved by the Government in 2015 [10].

The purpose of the Strategy is the socio-economic integration of internally displaced persons and the implementation of long-term solutions for the realization and protection of their rights, freedoms, and legitimate interests, increasing their level of self-sufficiency and independence, taking into account the interests of the host territorial communities, establishing effective interaction of internally displaced persons with the host territorial communities, by state authorities and local self-government bodies based on partnership, the result of which is the achievement of social unity [9].

On January 17, 2018, the Government issued Resolution № 20, «On Amendments to the Procedures Approved by Resolution № 422 of the Cabinet of Ministers of Ukraine dated March 31, 2004», which classifies internally displaced persons as citizens who have the right to receive premises from housing funds for temporary residence, as well as the list of documents required for this is defined [11].

Before the issuance of this Resolution, the problem of realizing the right to housing of IDPs was not settled at all, considering that according to the legislation of Ukraine, IDPs did not belong to the list of categories of citizens who had the right to social housing. In isolated cases, when the local council was able to allocate social housing for IDPs, the provisions of the laws «On local self-government in Ukraine» and «On social housing fund» were applied.

April 29, 2022 Resolution Cabinet Ministers of Ukraine approved the Procedure of purchase and construction of housing with the purpose of transfers for temporary residence internally displaced persons. This Order determines the mechanism for the acquisition and construction of housing with purpose transfers for temporary residence internally the displaced persons by score funds state, local budgets, funds international donors, volunteers contributions

physical and legal persons, others sources, no forbidden legislation [3; 12]. Therefore, at this stage, comprehensive support and implementation of this program are essential.

The right to housing is a fundamental human right closely related to other human rights provided by international legal acts. The right to housing is associated with the right to freely choose a residence, the inviolability of private life, etc.

The right to housing was first recognized by the Universal Declaration of Human Rights, which provides that: «Everyone has the right to an adequate standard of living, including food, clothing, housing, medical care and necessary social services necessary to maintain health and well-being of herself and her family, and the right to support in case of unemployment, illness, disability, widowhood, old age or other loss of means of livelihood due to circumstances beyond her control» [13]. Subsequently, the International Covenant on Economic, Social, and Cultural Rights also reflected housing rights. Clause 1 of Art. 11 of the Covenant discusses the right to housing. It states: «States participating in this Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and shelter, and to the steady improvement of living conditions. The participating states will take appropriate measures to realize this right, recognizing the importance of international cooperation based on free consent» [14].

The UN Guiding Principles on Internal Displacement are an additional international legal act that guarantees the right to housing. The Principles were adopted in 1998 and are considered one of the vital international legal acts for internally displaced persons, as the Principles reveal all the rights of displaced persons. This document contains norms of international humanitarian law and humanitarian law and complies with them. Currently, the document is considered a practical guide for the state and other competent authorities in the activities of internally displaced persons. Ukraine adheres to these UN guidelines [15].

Foreign experience allows us to analyze the general conditions of providing housing for IDPs and develop appropriate recommendations for Ukraine to formulate policies in this area. So, let's look at the example of Azerbaijan, Georgia, and the Republic of Cyprus and what Ukraine can take into account.

Internal displacement of people in Azerbaijan began after the conflict with Armenia over the territory of Nagorno-Karabakh. The conflict started during the Soviet era in 1988 when nationalist aspirations appeared in Nagorno-Karabakh, and the Soviet government agreed to transfer this territory to Armenia. In Azerbaijan, there is a program to improve living standards and create jobs for refugees and IDPs. Thanks to this program, 82 temporary settlements with schools and medical centers were built in Azerbaijan for 40,000 families, i.e., for 180,000 internally displaced persons. A positive aspect of this program is that IDPs could exercise their right to housing for a long-term period free of charge. However, the negative point was that the quality of housing in these temporary settlements was not satisfactory, so after a short time, the buildings needed repair [16].

Today, there are about 300,000 IDPs in Georgia, which is about 6% of the population of Georgia. The procedure for providing housing for internally displaced persons took place in the following ways: IDPs could privatize housing in which they live for a long time, relocation of IDPs to restored and newly built houses, or provision of one-time compensation of USD 10,000. USA; purchase of housing in rural areas for IDPs; Buying housing from private property and transferring it to IDP ownership [17]. It is noteworthy that the Georgian authorities transferred housing into private ownership of IDPs to ensure their long-term resettlement and created opportunities for the free disposal of property (buying, selling, renting, etc.).

The negative point was that, just like in Azerbaijan, most buildings were built with defects, which entailed the need to repair the newly built housing. Another problem was that IDPs were not involved in preliminary consultations and did not participate in housing allocation. There were also cases where IDPs received a one-time payment and could not receive their funds for a long time after their application was confirmed.

The study showed that, in some cases, the vague content of legal provisions allows for different interpretations. However, the problem is often because internal mechanisms do not provide for essential aspects related to the provision of appropriate housing. Despite recognizing the rights of internally displaced persons, Georgian legislation does not clearly define standards, such as housing, to be provided to internally displaced persons. The analysis of the judicial practice of Georgia showed that the national courts narrowly interpret the legal provisions, the state strategy, and the State Action Plan for internally displaced persons without focusing on the individual needs of the internally displaced persons.

Having analyzed the gaps in Georgia's legislation, Ukraine can finalize its legislation and strategies regarding the housing of internally displaced persons: 1) it is necessary to define in national legal acts the specific criteria that housing for internally displaced persons must meet; 2) the state must take into account the location of internally displaced persons, their integration process, and their unique needs during resettlement. The analysis of the Saginadze case showed that the guarantees of protection of internally displaced persons against illegal eviction from the objects where they live, contained in the national legislation, are strictly limited [3]. Even if an IDP can provide evidence that they legally own the property, the courts generally explain that the final decision on eviction will ultimately depend on the assessment of the Georgian Ministry of Occupied Territories. The mechanism for appealing administrative acts related to eviction is ineffective.

In addition, it is important to note that the applied procedures for the forced eviction of internally displaced persons by the police are unacceptable under international law. The state must provide preliminary information regarding removal, offer internally displaced persons no worse housing, or provide monetary compensation.

Based on the need to develop proposals for the problem of realizing the right to housing for the internally displaced population, we suggest finalizing our legislation and strategies for housing for internally displaced persons.

One of the institutional mechanisms for protecting the right to housing is the European Court of Human Rights. Of particular importance for Ukraine is the recently adopted decision of Cyprus against Turkey, when just satisfaction in the amount of EUR 90 million was awarded in an interstate dispute (as a rule, the Court granted satisfaction in individual disputes). This decision can become a precedent for resolving disputes between Ukraine and Russia. At the same time, it is necessary to consider the considerable periods for consideration of cases in the European Court. For example, in the case of *Xenides-Aestis v. Turkey*, the lawsuit was filed in November 1998. The Court issued the primary decision on the existence of a violation of the Convention on December 22, 2005 [18]. The decision on just satisfaction was issued on December 7, 2006. If we talk about interstate disputes, these terms are even longer.

According to the European Convention on Human Rights, the right to housing is defined and fair [19]. Direct arguments supporting the right to housing can be based on legally binding provisions provided by international, regional, or national laws.

To realize the right to housing for internally displaced persons, studying the principle of housing restitution for the specified category of persons is essential.

Guidance on property restitution and compensation can be found in the Principles for Housing and Property Restitution for Refugees and Displaced Persons, which were endorsed by the United Nations Subcommission for the Promotion and Protection of Human Rights in August 2005. The Principles for Housing Restitution result from a four-year study by the Subcommission.

The Principles of Housing and Property Restitution for Refugees and Internally Displaced Persons helps to formulate standards for protection against displacement and to improve the procedure, mechanism, and law of restitution from a human rights perspective. These principles' main goal is to develop comprehensive international standards that would provide a universal approach to housing restitution policy both at the national and international levels, based on existing international and humanitarian law.

It would be appropriate to explore the possibility of legal action in situations associated with a significant increase in homelessness.

In addition, to demand the application of one's rights and freedoms using standards directly related to the right to housing, the case can be filed using derivative claims. For example, the right to housing can be implied through express guarantees of other rights (e.g., the right to life and the right to family life) generally recognized as fundamental civil and political rights.

Demographic changes resulting from the armed conflict increased the number of homeless women and their families. When a woman loses her home, she is forced to move from the zone of temporary occupation to the unoccupied part of Ukraine and live with relatives or foster families. Such a woman is most likely not considered homeless because she is not «sleeping on the streets». However, she may find herself in a rugged housing situation, intending to provide housing for herself and her children and endangering her safety, and taking risky steps to overcome this housing situation.

Armed conflict and displacement can also lead to socio-economic disruptions within the

family, namely loss of work and income and changes in social status, leading to increased family violence. Displaced women are forced to make decisions that cause them to exist in violent and abusive relationships, such as when the rental or home ownership is controlled by an offender who does not provide housing for internally displaced women or artificially inflates prices. Access to safe and affordable housing is two of the most pressing issues for women to avoid violence and protect themselves and their children from a violent situation. Therefore, promoting the protection of displaced women's property rights is a central goal of the Norwegian Refugee Council's legal aid programs in many countries, including Ukraine.

The state and civil society organizations should develop and implement legal aid programs to support displaced women to overcome discrimination and barriers they face in accessing housing during resettlement and post-conflict times. In turn, international organizations should monitor the implementation of the right to housing among internally displaced women.

The approximate approach to solving the realization of the right to housing should be aimed at developing and coordinating state policy, which will allow quantitatively and qualitatively overcoming the current situation.

Today's public housing policy has been primarily focused on creating new housing, and although other alternatives have been proposed, they are either not encouraged or implemented to a lesser extent. Among the solutions that should be considered as alternatives for the internally displaced population, the following proposals should be considered that can be applied: 1) purchase of a new home; 2) purchase of used housing; 3) the state program of housing construction assistance on a plot belonging to an internally displaced person; 4) improvement of current housing (there are cases when an internally displaced person long-term rents or buys housing that is in a state of disrepair. In this case, the state can help rebuild housing with the condition that the IDP resides for a certain period); 5) adaptation of abandoned buildings, which can be structurally converted into residential buildings; 6) reconstruct buildings of the old housing stock; 7) design of rural settlements; 8) one-time compensation from the state; 9) special terms of loans and mortgages for IDPs.

Conclusions. Synthesizing the results of the analysis, the following should be noted.

1. The first task is developing and adopting the draft law «On restitution/compensation of destroyed housing and other property to internally displaced persons and other injured persons». The state and civil society organizations should actively develop and implement legal aid programs to support displaced persons to overcome discrimination and barriers they face in accessing housing during resettlement and post-conflict times. State bodies must keep detailed documentation (if possible in the conditions of cessation of hostilities) regarding the situation with housing and property of internally displaced persons at the time they left their homes. The relevant information should include the address, type of ownership status, ownership records, and other personal data of the housing from the beginning, which will provide a sufficiently objective source of information for the possible restitution of the housing. State and local bodies must strictly implement housing and property rights decisions.

2. Ukraine must undertake to grant the right to the reintegration of displaced people. The connection between national legislation and relevant international standards should be ensured. To ensure such compatibility, it is necessary to conduct an in-depth legal analysis and reform federal legislation to direct the provision of the right to housing among internally displaced persons. It is necessary to establish flexible and effective means of legal protection based on human rights principles.

3. Housing problems should be solved through effective institutional coordination. State institutions should be involved in post-conflict programs to restore internally displaced persons' housing and property rights. To ensure the successful return of housing or land, institutional efforts by government agencies are required. Joint action through the conclusion of agreements or memoranda could facilitate the mechanism and process of restitution for internally displaced persons. The housing restitution mechanism must be accessible and unobstructed, with a straightforward procedure. Existing housing documents, even incomplete, should be considered as proof of housing return. The state needs to create proper compensation systems. The claimant must receive compensation in cases where the home no longer exists, or the individual knowingly and voluntarily accepts payment instead of restitution. The state should establish a clear deadline for submitting claims for compensation or restitution of property. This information should be widely and continuously disseminated so that all internally displaced persons can apply for the restitution of their housing.

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Надійшла до редакції 06.12.2022

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ABSTRACT

The article reveals the problems of regulatory and institutional aspects of ensuring the right to housing of internally displaced persons. It was emphasized that satisfying the human need for housing is an important social task. Implementation of the right to housing among IDPs is particularly necessary.

It was emphasized that the first task is the development and adoption of the draft law «On restitution/compensation of destroyed housing and other property to internally displaced persons and other injured persons». The state and civil society organizations should actively develop and implement legal aid programs to support displaced persons to overcome discrimination and barriers they face in

accessing housing during resettlement and post-conflict times. State bodies must keep detailed documentation (if possible in the conditions of cessation of hostilities) regarding the situation with housing and property of internally displaced persons at the time they left their homes. State and local bodies must strictly implement housing and property rights decisions.

Ukraine must undertake to grant the right to the reintegration of displaced people. It is necessary to establish flexible and effective means of legal protection based on human rights principles. Housing problems should be solved through effective institutional coordination. State institutions should be involved in post-conflict programs to restore internally displaced persons' housing and property rights. Joint action through the conclusion of agreements or memoranda could facilitate the mechanism and process of restitution for internally displaced persons. The housing restitution mechanism must be accessible and unobstructed, with a straightforward procedure. Existing housing documents, even incomplete, should be considered as proof of housing return. The state needs to create proper compensation systems. The claimant must receive compensation in cases where the home no longer exists, or the individual knowingly and voluntarily accepts payment instead of restitution.

Keywords: *internally displaced persons, rights and freedoms, right to housing, institutional mechanism, housing restitution mechanism, institutional coordination, state authorities, guarantees, proper compensation systems, martial law.*

УДК 330.101.8

DOI: 10.31733/2078-3566-2022-6-36-42



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ОСОБЛИВОСТІ ЛЮДСЬКОГО КАПІТАЛУ В СУЧАСНИХ УМОВАХ РОЗВИТКУ УКРАЇНИ

У статті досліджено сутність комплексної оцінки розвитку людського капіталу в сучасних умовах розвитку національної економіки. Розкрито особливості індивідуального рівня людського капіталу. Розглянуто особливості інвестування в вітальний, трудовий, інтелектуальний та організаційний капітал. Вивчено макро- та мікроекономічний рівень людського капіталу.

Запропоновано досліджувати людський капітал за трирівневою характеристикою розвитку на індивідуальному, мікроекономічному та макроекономічному рівні. Здійснено аналіз витрат державного бюджету України (як основного джерела інвестицій у людський капітал) на розвиток людського капіталу за період 2016–2021 рр. Проаналізовано Індекс людського розвитку в Україні за період 2016–2021 рр. Запропоновано заходи щодо вдосконалення системи розвитку людського капіталу.

Ключові слова: *людський капітал, види людського капіталу, інвестування у людський капітал, формування людського капіталу.*

Постановка проблеми. Сучасний розвиток країни залежить від ефективності функціонування всіх сфер економіки, а саме – підприємств, які є дієвим механізмом перетворення ресурсів в економічний добробут. Саме тому великого значення набувають накопичення та примноження підприємствами матеріальних та нематеріальних активів, де основним інструментарієм загального управління є знання та досвід працівників. Відповідно, зростає роль людського капіталу в забезпеченні економічного розвитку не тільки підприємства, а й всієї країни, особливо в сучасних умовах її розвитку.

Аналіз публікацій, в яких започатковано вирішення цієї проблеми. Дослідженню сутності поняття «людський капітал» присвячені наукові розробки провідних вчених-економістів, що мають певні розбіжності щодо змістового наповнення

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