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MODERN NATIONAL SYSTEM OF ADMINISTRATIVE AND LEGAL FRAMEWORK FOR THE DETENTION OF PRISONERS OF WAR IN UKRAINE

Abstract. ***Purpose.*** The purpose of the article is to study the legal and regulatory framework for relations concerning the detention of prisoners of war in Ukraine. ***Results.*** The article states that nowadays the national system of legal framework for the detention of prisoners of war is quite extensive and covers a wide range of issues. It is not limited to national and international legal instruments and generally goes beyond the administrative branch of law. The article argues that, adhering to humanistic principles, national legislation probably regulates the issue of detention of prisoners of war more thoroughly than international legal provisions, based on the functional tasks that need to be solved in practice. ***Conclusions.*** It is concluded that nowadays the national system of legal framework for the detention of prisoners of war is quite extensive and covers a wide range of issues. It is not limited to national and international legal instruments and generally goes beyond the administrative branch of law. Therefore, there are grounds to assert that adhering to humanistic principles, national legislation probably regulates the issue of detention of prisoners of war more thoroughly than international legal provisions, based on the functional tasks that need to be solved in practice. Nevertheless, some researchers still emphasise the incomplete compliance of national regulatory practice with generally accepted international provisions. If we consider the modern system of legal framework for the detention of prisoners of war as consisting of two major parts (international humanitarian law, which lays the ideological foundation, and national legislation, which mainly regulates practical activities), then both structural components, in our opinion, have shortcomings. These are: 1) international legal instruments contain provisions that, in the current situation (given the specificities of the aggressor country), lose their practical meaning. For example, the possibility of consenting to the release of a prisoner of war on the basis of honour or obligation. In addition, international humanitarian law does not consider the full variety of possible typical situations that need to be addressed or is unable to provide an answer to them. For example, international legal documents provide for a rather limited number of options for release from captivity; 2) the weakness of the set of national legal provisions, in our opinion, is a certain terminological diversity and inconsistency. For example, the simultaneous use in different legal instruments of the concepts of "capture, captivity, detention, holding, etc.) Furthermore, the national legal system is characterised by regulating separate functional tasks related to the treatment of prisoners of war in different legal regulations issued by different state authorities, which does not simplify the system in general. Another specific feature of the national system of legal regulatory framework for the detention of prisoners of war is that it is still evolving. For example, in the future, we can expect to see legislative developments on the exchange and release of prisoners of war, as well as their liability for war crimes and offences.

Key words: prisoners of war, rights of prisoners of war, detention of prisoners of war, administrative and legal framework, system, national system.

1. Introduction

The review of professional literature, scientific events, and practical activities of state bodies and officials regarding the regulatory framework and practice of organising relevant activities related to the detention of prisoners of war convincingly reveals both negative experiences and successful developments in Ukraine. The most active work in this area took place in the years immediately following the start of full-scale Russian armed aggression. And it is possible that it will be further developed and improved depending on current issues. For example, the additional regulation

of the exchange of prisoners of war, or the resolution of issues related to prisoners of war who have committed war crimes. Moreover, now is the time when it is advisable to analyse the experience already gained and to substantiate scientifically proven approaches to build a basis for further practical activities. This is the reason for the relevance of our chosen research topic.

In the context of the topic under study, it is advisable to mention scholars who have raised the issue of the national system of administrative and legal framework for the detention of prisoners of war in Ukraine in their scientific works, such as: V. Aloshyn, A. Amelin, Y. Badiukov, P. Bohutskyi, M. Buromenskyi, Ya. Hodzhek, A. Hryhoriev, M. Hrushko, O. Dzhafarova, A. Dmitriev, O. Drozd, S. Yehorov, O. Zhytnyi, J. Zhukorska, V. Zavhorodnii, V. Kaluhin, F. Kalskhoven, F. Kozhevnikov, F. Kryl, V. Lysyk, V. Lisovskyi, H. Melkov, V. Moroz, S. Nishchymna, A. Poltorak, V. Repetskyi, L. Savynskyi, L. Tymchenko, O. Tiunov, M. Khavroniuk, P. Khriapinskyi, M. Tsiurupa, S. Shatrava, and others.

The purpose of the article is to study the legal and regulatory framework for relations concerning the detention of prisoners of war in Ukraine. The task of the research is to formulate conclusions on the development of the national system of administrative and legal framework for the detention of prisoners of war in Ukraine.

2. Powers of the National Council for the Recovery of Ukraine from the War

Today, after two years of full-scale war, some administrative and managerial initiatives on regulatory issues related to the detention of prisoners of war seem unclear. For example, on April 21, 2022, the President of Ukraine issued Decree No. 266/2022, which established the National Council for the Recovery of Ukraine from the War (National Council) as his advisory body. The tasks of the National Council were defined as follows: "*to develop an action plan for the post-war recovery and development of Ukraine*...; to identify and develop proposals for priority reforms, the adoption and implementation of which is necessary in the war and post-war periods; to prepare strategic initiatives, draft laws and regulations, the adoption and implementation of which is necessary for the effective work and recovery of Ukraine in the war and post-war periods" (Decree of the President of Ukraine on the issue of the National Council for the Recovery of Ukraine from the Consequences of the War, 2022). From the perspective of current experience, this initiative (implemented less than 2 months after the start of the full-scale Russian military invasion) looks naïve and impractical at the very least.

However, the National Council, within the framework of the established 24 working groups, developed a draft of the relevant "Action Plan" in July 2022. According to Resolution of the Cabinet of Ministers of Ukraine (CMU) No. 518 of 3 May 2022 (Resolution of the Cabinet of Ministers of Ukraine On Amending Clause 3 of the Regulations on the Office of Reforms, 2022), the Secretariat of the CMU and the Office of the President of Ukraine provided organisational and technical support to the National Council, and the Office of Reforms of the CMU provided information and analytical support to the relevant working groups. Comments and suggestions to the draft Sections of the Action Plan were submitted by the National Council until 1 September 2022. (Government portal (The single web portal of the executive authorities of Ukraine), 2023).

The Justice Working Group's draft of the Recovery Plan for Ukraine alone is 161 pages long, so there were a lot of proposals. In the context of our study, it is worth focusing on the Section of the Justice Working Group's draft – "Public safety and social adaptation of convicts and prisoners. Ensuring the detention of prisoners of war". In this Section, the Working Group identified 9 key challenges and stressed that "in order to solve systemic structural problems, to form an optimal model for the execution of criminal sentences and given the devastating consequences of russia's military aggression against Ukraine and the need to ensure the detention of prisoners of war, the penitentiary system needs to be restored and further reformed". The timeframe for the implementation of the respective stages was also determined: Stage 1: 06/2022 – 12/2022; Stage 2: 01/2023 – 12/2025; Stage 3: 01/2026 – 12/2032. In other words, in the face of uncertainty and a total lack of clear, reliable information and forecasts, the planning attempt was made for a decade. However, among the project's proposals, in our opinion, there are both quite logical and rather dubious ones. For example, already for the first stage, the task (3) is defined: to create "conditions for the detention of prisoners of war. 3.1. Development of design and estimate documentation for the construction/reconstruction of a POW camp (if necessary); 3.2. Obtaining funding and conducting the necessary tender procedures and obtaining a construction permit (if necessary); 3.3. Conducting construction/repair work in the POW camp; 3.4. Putting the camp into operation" (p. 139). In addition, the draft indicates that it is advisable to develop a Law "On amendments to certain legislative instruments aimed at <...> specifying the procedure and conditions of detention of prisoners of war ..." (pp.

157–158). However, the body responsible for the implementation of this measure is for some reason not specified, nor is a clear deadline for its implementation indicated (Draft Plan for the Recovery of Ukraine Materials of the "Justice" working group of the National Council for the Recovery of Ukraine from the Consequences of the War, 2022).

In contrast, the proposals to build 2,000 places for detainees and create 1,000 places in penal institutions by 2025 and to build 28 pretrial detention centres and 29 new penal institutions by 2032 look much less reasonable. It is worth reminding that the number of convicts before the full-scale russian invasion of Ukraine had been decreasing for a long time, and colonies (penal institutions) were actively conserved and liquidated. However, the project provides a considerable indicative need for funding for these tasks (for construction and other improvements, such as software and information technology, etc.) The amounts mentioned in the project are obviously for the entire period of implementation, i.e., until 2032, and amount to UAH 148,600.00 + 111.65. The amount is not in thousands, but in millions (at today's prices, it is about $4 billion). One of the main sources of funding is loans from international financial organisations. The feasibility of borrowing such a sum (and as you know, loans are usually repayable and usually with interest) seems to us rather questionable.

We could not find any information that the draft or a part of it developed by a specific working group was adopted as a real action plan. Despite the obvious shortcomings of the project (cumbersome and unfortunate planning timeframe, which makes the project unrealistic), we believe that the main drawback is the inappropriateness of combining the tasks related to convicts and prisoners of war into one scope of work. After all, these are completely different categories of people, the experience of working with them, the need to ensure the dynamics of developing practical solutions, and their legal framework differ significantly. Therefore, in our opinion, plans for such works should be drawn up for separate categories (even if the same state actors will be involved in their implementation).

Another example of managerial activities of the state related to the treatment of prisoners of war is the Implementation Plan for the Framework on cooperation between the Government of Ukraine and the UN on prevention and response to conflict-related sexual violence (approved by the Commission for Coordination of Interaction of Executive Authorities to Ensure Equal Rights and Opportunities for Women and Men on 15.09.2022) (Government portal (The single web portal of the executive authorities of Ukraine), 2023).

For example, task 32 of the Plan provides for action 1: "Include in the thematic plans for in-service training and retraining of employees of the security and defence sector, judicial bodies and the bar a section on the specifics of detecting and investigating war crimes and crimes against humanity, including gender-based crimes". It is difficult to understand why, after six months of full-scale war, the Government still used (or agreed to use) the phrase "conflict-related sexual violence" (CRSV) in its own documents, but the initiative to "Train security and defence sector personnel responsible for POW camps/detention centres on prevention and response to CRSV (definition of CRSV, its types, risks, impact, responsibility and relevant laws, etc". (Decision of the Commission on coordination of the interaction of executive authorities on ensuring equal rights and opportunities for women and men On the approval of the Plan for the implementation of the Framework Program of Cooperation between the Government of Ukraine and the United Nations organization on the prevention and counteraction of sexual violence related to the conflict, 2022) seems, although not the most necessary, to be a useful and feasible measure.

In the context of our study, however, it would be worthwhile to focus on legislative changes that have already been implemented and have been in force almost from the very beginning of the full-scale russian invasion. For example, Law of Ukraine No. 2158-IX "On Amendments to Certain Legislative Acts of Ukraine regarding Regulation of Issues Related to Prisoners of War in a Special Period" of 24 March 2022 (Law of Ukraine On Amendments to Certain Legislative Acts of Ukraine Regarding Regulation of Issues Related to Prisoners of War in a Special Period, 2022). This legal regulation amended and supplemented the content of: the Criminal Executive Code of Ukraine; the Law of Ukraine "On Pre-trial Detention"; the Law of Ukraine "On the Armed Forces of Ukraine"; the Law of Ukraine "On Defence of Ukraine"; the Law of Ukraine "On the Military Law Enforcement Service in the Armed Forces of Ukraine"; the Law of Ukraine "On the State Criminal Executive Service of Ukraine"; the Law of Ukraine "On the Legal Regime of Martial Law".

The legislative changes implemented by this instrument include: define the powers of the central executive body (CEB) responsible for the formation and implementation of public policy on the detention of prisoners of war; clarify the distribution of powers to determine the state enterprise that will be responsible

for the functions of the National Information Bureau (the relevant entity must be established in accordance with the requirements of Article 122 of the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949); outline the powers of the CEA, which ensures the formation of public policy on the temporarily occupied territories of Ukraine and the adjacent territories; clarify the competence of the CEA, which implements public policy in the field of foreign relations; adjust the responsibilities of the CEA in the field of transport and postal services, etc.

Therefore, this data suggests that the distribution and regulation of new competences of CEAs related to their participation in the detention of prisoners of war was one of the first necessary steps taken at the legislative level to develop the relevant "administrative and legal system".

3. Powers of the Cabinet of Ministers of Ukraine in the Detention of Prisoners of War in Ukraine

The next step in the development was taken at the bylaw level by the Cabinet of Ministers of Ukraine (CMU). For example, CMU Resolution No. 394 of April 1, 2022 "On Amendments to the Regulation on the Ministry of Justice of Ukraine" stipulates that the Ministry of Justice is "the main body in the system of central executive authorities that ensures the formation and implementation of public legal policy <...> on detention of prisoners of war ..." (Resolution of the Cabinet of Ministers of Ukraine on the approval of the Regulation on the Ministry of Justice of Ukraine, 2014). Moreover, subparagraphs 95-[17] and 95-[18] of paragraph 4 of the Resolution entrust the Ministry of Justice with the following tasks: "to establish camps for the detention of prisoners of war and detention centres of prisoners of war; to create conditions for the detention of prisoners of war in camps for the detention of prisoners of war and detention centres of prisoners of war in compliance with Ukraine's international obligations, in particular in the field of international humanitarian law, and the requirements of national legislation" (Resolution of the Cabinet of Ministers of Ukraine On Amendments to the Regulations on the Ministry of Justice of Ukraine, 2022).

After that, the CMU issued a number of other legal regulations that established procedures, algorithms, standards, tasks for certain state actors, etc. Examples of relevant acts are Resolution of the Cabinet of Ministers of Ukraine No. 413 "On Approval of the Procedure for the Detention of Prisoners of War" of 5 April 2022 (Resolution of the Cabinet of Ministers of Ukraine on approval of the Procedure for Detention of Prisoners of War, 2022) and Resolution of the Cabinet of Ministers of Ukraine No. 721 "On Approval of the Procedure for the Implementation of Measures for the Treatment of Prisoners of War in a Special Period" of 17 June 2022 (Resolution of the Cabinet of Ministers of Ukraine on approval of the Procedure for the implementation of measures regarding the treatment of prisoners of war in a special period, 2022). In particular, these Resolutions set tasks for: The Ministry of Justice of Ukraine; the Ministry of Foreign Affairs of Ukraine; the Ministry of Internal Affairs of Ukraine; the Ministry of Defence of Ukraine; the Ministry of Community, Territorial and Infrastructure Development of Ukraine; the State Penitentiary Service of Ukraine; and Military Administrations. Moreover, they define some specific features of communication on prisoner of war issues with the Security Service of Ukraine; the National Police of Ukraine; the Prosecutor's Office; and the Military Law Enforcement Service of the Armed Forces of Ukraine.

These entities obviously do not represent an exhaustive list of bodies involved in the detention of prisoners of war. In this context, it should also be noted that specific state actors have been created that combine representatives of a wider range of authorities. For example, the "Coordination Headquarters for the Treatment of Prisoners of War", which "is a temporary auxiliary body of the Cabinet of Ministers of Ukraine and is established to facilitate the coordination of activities of central and local executive authorities, other state bodies, local self-government bodies, military formations established in accordance with the laws, law enforcement agencies and public associations <...> (on the treatment of) <...> enemy prisoners of war" (Resolution of the Cabinet of Ministers of Ukraine on the establishment of the Coordination Headquarters for the Treatment of Prisoners of War, 2022) includes representatives of 21 state entities (from different branches of government).

Such a large number of representatives of various state authorities undoubtedly indicates the complexity of ensuring the detention of prisoners of war. Therefore, it makes sense to clarify which issues are related to such activities. For this purpose, we will use the comparison of the previously mentioned Convention and the Procedures determined by the CMU.

4. Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949

Thus, the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949 contains VI parts: General Provisions; General Provisions for the Protection of Prisoners of War; Captivity; Termination of Captivity;

Information Bureaux and Relief Societies for Prisoner of War; Execution of the Convention.

As such, Part III of the Convention consists of the following Sections and Chapters: Section I Beginning of Captivity; Section II Internment of Prisoners of War (Chapter I "General Observations"; Chapter II "Quarters, Food and Clothing of Prisoners of War"; Chapter III "Hygiene and Medical Attention"; Chapter IV "Medical Personnel and Chaplains Retained to Assist Prisoners of War"; Chapter V "Religious, Intellectual and Physical Activities"; Chapter VI "Discipline"; Chapter VII "Ranks of prisoners of war"; Chapter VIII "Transfer of prisoners of war after their arrival in the camp"); Section III Labour of Prisoners of War; Section IV Financial Resources of Prisoners of War; Section V Relations of Prisoners of War with the Exterior; Section VI Relations between Prisoners of War and the Authorities (Chapter I "Complaints of Prisoners of War respecting the Conditions of Captivity"; Chapter II "Prisoner of War Representatives"; Chapter III "Penal and Disciplinary Sanctions").

The titles of the parts, sections and chapters suggest that the authors of the Convention attempted to combine the *functional approach* (which concerns the logical course of events from the moment a person is taken prisoner until the termination of his or her captivity) and the *humanitarian approach* (which concerns the listing and enshrining of the rights of prisoners of war).

To compare the national legal regulations with the above document, CMU Resolution No. 413 "On Approval of the Procedure for the Detention of Prisoners of War" of April 5, 2022, is presented below. It has the following structure: I. General Provisions; II. General Principles of Detention of Prisoners of War; III. General Principles of Establishment and Operation of Camps; IV. Organisation of Prisoners of War Admission to Camps; IV-1. Ensuring the Participation of Prisoners of War in Investigative (Search) and Other Procedural Actions, Court Proceedings (Section added on July 07, 2022 according to CMU Resolution No. 762); V. Food for Prisoners of War; VI. Material and Household Support of Prisoners of War; VII. Medical Care of Prisoners of War; VIII. Involvement of Prisoners of War in the Performance of Work; IX. Religious, Intellectual and Physical Activities of Prisoners of War; X. Disciplinary Sanctions; XI. Funds of Prisoners of War; XII. Procedure for Receiving Letters, Postal Cards and Parcels, Granting the Right to Telephone Conversations; XIII. Organisation of Burial, Repatriation, Hospitalisation in Neutral Countries and Release of Prisoners of War; XIV. Specifics of the Functioning of POW Detention Centres.

A comprehensive study of CMU Resolution No. 413 of April 5, 2022 gives every reason to believe that it was drafted with a combination of approaches used in the drafting of the above-mentioned Convention. Meanwhile, the structures of these documents overlap but do not duplicate each other. In our opinion, the primacy in building the structure of the national legal regulation is still given to the approach of functionality.

However, the content of this Resolution alone obviously does not cover all the functional components of ensuring the detention of prisoners of war declared at the international level. For instance, the above-mentioned Convention in Section I of Part III describes the "beginning of captivity". Instead, CMU Resolution No. 413 begins to streamline the work with prisoners of war immediately with the "organisation of measures for prisoners of war admission to camps" (Section IV of the Resolution). However, this discrepancy does not constitute an omission or disregard of international provisions. After all, this aspect of work with prisoners of war is regulated by another national legal regulation, which was issued by a different government agency (the one responsible for implementing the relevant actions). We are referring to Order of the Ministry of Defence of Ukraine (MD) No. 164 "On Approval of the Instruction on the Procedure for Implementation of International Humanitarian Law in the Armed Forces of Ukraine" of March 23, 2017, registered with the Ministry of Justice of Ukraine on June 9, 2017, No. 704/30572.

It should be noted that MD Order No. 164 was issued earlier than CMU Resolution No. 413 (issued on March 23, 2017 and April 5, 2022, respectively). Moreover, MD Order No. 164 is aimed at regulating a wider range of issues than just the work with prisoners of war. However, this document, as well as virtually all other national legal regulations that address the issue of detention of prisoners of war, necessarily emphasises the requirement to comply with the established provisions of international humanitarian law and humane treatment.

It is also important that the targeted regulation at the national level of the issues of detention of prisoners of war not only gradually filled the gaps in regulating all functional stages of work with prisoners of war (in accordance with international requirements), but also somewhat expanded and specified their list.

This statement can be proved by the fact that Section IV-1 "Ensuring the Participation of Prisoners of War in Investigative (Search) and Other Procedural Actions, Court Proceedings" was added to the content of CMU Resolution No. 413 (as mentioned above); or,

for example, by the attempts of lawmakers to form a regulatory framework for the exchange of prisoners. Notably, on this issue in 2022, V. Kuznetsov and M. Syiploki argued that: "the existing draft laws on this issue" (No. 5672, 5672-1, 7436) had certain flaws and needed to be revised; 3) (according to these scholars), two procedures for the exchange of prisoners of war of the aggressor country should be provided for at the legislative level: one should apply to prisoners of war who did not commit war crimes, the other two prisoners of war who did commit war crimes; 4) at the bylaw level (regulations of the President of Ukraine, resolutions of the CMU, etc.), only the details of such procedures could be specified; 5) the exchange of prisoners of war who committed war crimes is possible only after a decision of the judicial authorities in accordance with the established procedure (Kuznetsov, Syiploki, 2022) (we consider the above conclusions and recommendations of scholars to be debatable at this time). However, in 2023, O. Tubelets, Chief Consultant of the Main Legal Department of the Verkhovna Rada of Ukraine, also criticised some of the legislative initiatives launched in this respect (Tubelets, 2023).

5. Conclusions

However, we can confidently state that nowadays the national system of legal framework for the detention of prisoners of war is quite extensive and covers a wide range of issues. It is not limited to national and international legal instruments and generally goes beyond the administrative branch of law. Therefore, there are grounds to assert that adhering to humanistic principles, national legislation probably regulates the issue of detention of prisoners of war more thoroughly than international legal provisions, based on the functional tasks that need to be solved in practice. Nevertheless, some researchers still emphasise the incomplete compliance of national regulatory practice with generally accepted international provisions.

If we consider the modern system of legal framework for the detention of prisoners of war as consisting of two major parts (international humanitarian law, which lays the ideological foundation, and national legislation, which mainly regulates practical activities), then both structural components, in our opinion, have shortcomings. These are: 1) international legal instruments contain provisions that, in the current situation (given the specificities of the aggressor country), lose their practical meaning. For example, the possibility of consenting to the release of a prisoner of war on the basis of honour or obligation. In addition, international humanitarian law does not consider the full variety of possible typical situations that need to be addressed or is unable to provide an answer to them. For example, international legal documents provide for a rather limited number of options for release from captivity; 2) the weakness of the set of national legal provisions, in our opinion, is a certain terminological diversity and inconsistency. For example, the simultaneous use in different legal instruments of the concepts of "capture, captivity, detention, holding, etc." Furthermore, the national legal system is characterised by regulating separate functional tasks related to the treatment of prisoners of war in different legal regulations issued by different state authorities, which does not simplify the system in general. Another specific feature of the national system of legal regulatory framework for the detention of prisoners of war is that it is still evolving. For example, in the future, we can expect to see legislative developments on the exchange and release of prisoners of war, as well as their liability for war crimes and offences.

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СУЧАСНА НАЦІОНАЛЬНА СИСТЕМА АДМІНІСТРАТИВНО-ПРАВОВОГО ЗАБЕЗПЕЧЕННЯ ТРИМАННЯ ВІЙСЬКОВОПОЛОНЕНИХ В УКРАЇНІ

Анотація. ***Мета.*** Мета статті полягає у вивченні нормативно-правового регулювання взаємовідносин, пов'язаних із триманням військовополонених в Україні. ***Результати.*** У науковій праці констатовано, що натепер національна система правового забезпечення тримання військовополонених доволі об'ємна й охоплює широке коло питань. Вона не обмежується національними та міжнародними нормативно-правовими актами та і взагалі виходить за межі адміністративної галузі права. Стверджується, що, дотримуючись гуманістичних засад, національне законодавство, ймовірно, детальніше за міжнародні правові норми врегульовує питання тримання військовополонених, виходячи при

цьому із функціональних задач, які необхідно розв'язувати в практичній діяльності. Водночас деякі дослідники все ж звертають увагу на неповну відповідність національної практики нормативного регулювання загальновстановленим міжнародним нормам. Якщо розглядати сучасну систему правового забезпечення тримання військовополонених як таку, що складається із двох великих частин (міжнародного гуманітарного права, яке закладає ідеологічну основу, й національного законодавства, яке здебільшого врегульовує практичну діяльність), то обидва структурні складники не позбавлені недоліків, а саме: 1) міжнародні правові акти містять положення, які в умовах сьогодення (враховуючи особливості країни-агресорки) втрачають свій практичний сенс, наприклад, можливість надання згоди на звільнення військовополоненого під слово честі або зобов'язання. Крім того, міжнародне гуманітарне право не враховує все різноманіття можливих типових ситуацій, які потребують урегулювання, або не здатне надати на них відповідь. Наприклад, у міжнародних правових документах розглянуто доволі обмежену кількість варіантів звільнення з полону; 2) слабкою стороною сукупності національних правових норм, на наш погляд, є деяке термінологічне різноманіття і неузгодженість, наприклад, одночасне використання в різних нормативно-правових актах понять «захоплення, взяття в полон, тримання, утримування тощо). ***Висновки.*** Національна правова система характеризується врегулюванням окремих функціональних завдань щодо роботи з військовополоненими, викладеними в різних нормативно-правових актах, виданих різними державно-владними суб'єктами, що не спрощує систему загалом. Ще одна особливість національної системи правового врегулювання тримання полонених полягає в тому, що вона все ще продовжує розвиватися. Наприклад, надалі варто очікувати нормотворчих напрацювань із проблем обміну та звільнення військовополонених, а також їх відповідальності за воєнні правопорушення і злочини.

Ключові слова: військовополонені, права військовополонених, тримання військовополонених, адміністративно-правове забезпечення, система, національна система.

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