

# **ENHANCING the NATIONAL RESPONSE to INTERNAL DISPLACEMENT:**

## **A GUIDE to GOOD PRACTICES by COUNCIL of EUROPE MEMBER STATES**

Erin Mooney

Council of Europe Project  
«Strengthening the Human Rights Protection  
of Internally Displaced Persons in Ukraine»  
under the Framework of the Council of Europe  
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# EXECUTIVE SUMMARY

Internal displacement is a global crisis: currently, there are more than 40 million internally displaced persons (IDPs) around the world. In Ukraine, the occupation of Crimea in March 2014 and the outbreak the following month of conflict in the eastern regions of the country has resulted in mass internal displacement. Indeed, with a registered 1.49 million IDPs as of end December 2017<sup>1</sup>, Ukraine has one of the largest IDP populations worldwide; it is in the top ten of countries with the most people internally displaced by conflict and violence<sup>2</sup>. In 2015, conflict in Ukraine generated the fourth highest number of new IDPs<sup>3</sup> in the world, after Yemen, Syria and Iraq. New displacement is ongoing.

— Protecting and assisting IDPs as well as securing safe and sustainable solutions to internal displacement is the responsibility, first and foremost, of the government of the country in which internal displacement occurs. The Council of Europe's Committee of Ministers has reaffirmed this well-established international principle and recommended that all member states be guided by it when faced with a situation of internal displacement in their country. Recognizing that IDPs have specific needs as a result of their displacement, the Committee of Ministers further has called upon member states to take appropriate measures to address the specific needs of IDPs and to ensure protection of their rights under international law, including the European Convention on Human Rights.

— In Ukraine, effectively addressing internal displacement therefore requires a robust and rights-based response by the Government. As the Council of Europe Commissioner for Human Rights has emphasized, «the Ukrainian authorities must take the lead in this process and demonstrate their resolve in ensuring that IDPs receive all the protection they are entitled to under international law». To support its efforts, the Government of Ukraine has requested technical assistance and ex-

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1 Ministry of Social Policy of Ukraine, IDPs registration, available at: <http://www.msp.gov.ua>

2 International Displacement Monitoring Center (IDMC), Global report on internal displacement, Grid 2017 (IDMC and Norwegian Refugee Council), p. 27, available at: <http://www.internal-displacement.org/global-report/grid2017/pdfs/2017-GRID.pdf>

3 IDMC, Global report on internal displacement, Grid 2016 (IDMC and Norwegian Refugee Council), available at: <http://www.internal-displacement.org/assets/publications/2016/2016-global-report-internal-displacement-IDMC.pdf>

pressed a particular interest in learning from the experiences of other countries that have faced internal displacement. In response to this request, and within the framework of its project on «Strengthening the Human Rights Protection of Internally Displaced Persons in Ukraine», the Council of Europe commissioned this guide.

— This publication, ***Enhancing the National Response to Internal Displacement in Ukraine: A Guide to Good Practices by Council of Europe Member States***, seeks to support an effective response to the IDP crisis in Ukraine in two main ways. First, it provides a compilation of examples of practices implemented by other member states of the Council of Europe towards addressing a number of specific issues arising in internal displacement that currently are being faced also in Ukraine. Certainly, the circumstances of internal displacement vary and there is no «one size fits all» solution. Even so, it can be useful to learn about – and especially also to learn from – other experiences of responding to similar challenges, and then adapt relevant approaches to fit the local context. As such, this sharing of state practices from other Council of Europe member states responding to internal displacement aims to inform and, as appropriate, guide the further development of responses by the Government and stakeholders. Second, a brief online publication explores some of the ways in which the authorities and civil society in Ukraine already have been working to address several of these same challenges. In so doing, it reveals certain promising practices in Ukraine that appear worthy of replication throughout the country and which also potentially could inform and enhance responses to internal displacement in other countries, both within the Council of Europe and even worldwide<sup>4</sup>.

— It is to be hoped that this publication will be widely disseminated and used, in particular in Ukraine, to inform and potentially inspire additional measures to continue to strengthen national, regional and local responses to internal displacement and thereby to contribute to ensuring effective protection and assistance as well as safe and sustainable solutions for IDPs in Ukraine.

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4 The online publication is available at the project website: <https://www.coe.int/en/web/kyiv/idps>

## ACKNOWLEDGEMENTS

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## KEY ACRONYMS

ABL	Administrative borderline
BiH	Bosnia and Herzegovina
CEB	Council of Europe Development Bank
CoM	Committee of Ministers (of the Council of Europe)
CRC	Convention on the Rights of the Child
CSO	Civil Society Organization
DPA	Dayton Peace Agreement
DRC	Danish Refugee Council
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ESR	European Social Charter
ECSR	European Committee of Social Rights
FBiH	Federation of Bosnia and Herzegovina (an Entity of Bosnia and Herzegovina)
HLP	Housing, land and property
IASC	Inter-Agency Standing Committee
ICRC	International Committee of the Red Cross
IDMC	Internal Displacement Monitoring Centre
IDP	Internally displaced person
IOM	International Organization of Migration
IPU	Inter-Parliamentary Union
JIPS	Joint IDP Profiling Service
KAS	Kosovo Agency for Statistics
LAP	Local action plan
MP	Member of Parliament
MRA	Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees, Government of Georgia
NGO	Non-government organization
NHRI	National human rights institution
NRC	Norwegian Refugee Council
OSCE	Organization for Security and Cooperation in Europe
PACE	Parliamentary Assembly of the Council of Europe
RS	<i>Republika Srpska</i> (an Entity of Bosnia and Herzegovina)
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNMIK	United Nations Mission in Kosovo

# INTRODUCTION

Globally, there currently are more than 40 million people who have been forced to leave their homes due to conflict or violence but who, unlike refugees, remain within their own country as «internally displaced persons» (IDPs)<sup>5</sup>. Millions more people are internally displaced every year as a result of disasters, whether natural or human-made, and other causes such as development projects. Internal displacement is a truly global crisis, occurring in all regions of the world.

— Council of Europe member states have not been immune from this global crisis. In recent decades, and particularly since the early 1990s, more than a quarter of the Council of Europe's 47 member states have experienced internal displacement due to armed conflict, including: Armenia, Azerbaijan, Bosnia and Herzegovina, Croatia, Cyprus (protracted displacement since 1974), the former Yugoslav Republic of Macedonia, Georgia, Moldova, Montenegro, Serbia, the Russian Federation, Turkey, and now Ukraine. Moreover, many of these countries plus several other Council of Europe member states, including Italy, Switzerland, and the United Kingdom, have experienced internal displacement due to natural disasters such as earthquakes, floods, and landslides. Human-made disasters, for instance at Chernobyl in 1986, also have caused internal displacement.

— In Ukraine, the occupation of Crimea in March 2014 and the outbreak the following month of conflict in the eastern regions of the country have caused mass displacement, both within the country and across borders. As of end December 2017, there are more than 1.49 million IDPs in Ukraine<sup>6</sup>, making Ukraine one of the largest IDP crises in the world today. In 2015, Ukraine produced the fourth highest number of new IDPs in the world, after Yemen, Syria and Iraq<sup>7</sup>.

— Responsibility for protecting, assisting, and finding solutions for IDPs lies first and foremost with the government of the country in which internal displacement is taking place. This well-established principle of international law is one of four core principles the Council of

5 Internal Displacement Monitoring Centre (IDMC), *Global Report on Internal Displacement, Grid 2017* (IDMC and Norwegian Refugee Council, 2016), p. 7.

6 Ministry of Social Policy of Ukraine, IDPs registration, available at: <http://www.msp.gov.ua>

7 IDMC, *Global Report on Internal Displacement, Grid 2016*, p. 10.



Europe «recommends that governments of member states be guided by when formulating their internal legislation and practice, and when faced with internal displacement». Specifically:

- ◆ Protecting IDPs and their rights as well as providing humanitarian assistance to them is a primary responsibility of the state concerned;
- ◆ The United Nations *Guiding Principles on Internal Displacement*<sup>8</sup> and other relevant international instruments of human rights or humanitarian law apply to all IDPs, including persons displaced from their homes or places of habitual residence due to natural or man-made disasters;
- ◆ IDPs shall not be discriminated against because of their displacement. Member states should take adequate and effective measures to ensure equal treatment among IDPs and between them and other citizens. This may entail the obligation to consider specific treatment tailored to meet IDPs' needs;
- ◆ Particular attention shall be paid to the protection of persons belonging to national minorities and to the protection and assistance requirements of the most vulnerable groups in accordance with relevant international law standards<sup>9</sup>.

— In Ukraine, effectively addressing internal displacement therefore requires a robust and rights-based response by the Government. As the Council of Europe Commissioner for Human Rights emphasized in a letter to Prime Minister in June 2014, «the Ukrainian authorities must take the lead in this process and demonstrate their resolve in ensuring that IDPs receive all the protection they are entitled to under international law»<sup>10</sup>. The Government of Ukraine recognizes its responsibility in this regard and increasingly, albeit incrementally, has taken steps towards fulfilling this responsibility. In the initial days and weeks of internal displacement, civil society and other volunteer organizations were the ones very much at the forefront of responding to IDPs' emergency needs. Still several months into the crisis, when the UN Special Rapporteur on the Human Rights of Internally Displaced Persons visited

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8 United Nations, *Guiding Principles on Internal Displacement*, UN doc. E/CN.4/1998/53/Add.2 (1998).

9 Council of Europe, Committee of Ministers, Recommendation (2006)6 to Member States on Internally Displaced Persons, adopted on 5 April 2006, paras. 1–4 [reordered]. [Hereinafter: Council of Europe, CoM, Rec on IDPs].

10 Council of Europe, Commissioner on Human Rights, Letter from Nils Mužnieks to Mr. Arseniy Yatsenyuk, Prime Minister of Ukraine, 27 June 2014, Ref: Comm/HR/IG/sf017–2014, CommR(2014)15.

the country, he observed: «Government representatives frequently state that Ukraine had been taken by surprise by the crisis and the subsequent high numbers of IDPs and that they were not experienced in dealing with internal displacement situations»<sup>11</sup>. Returning to Ukraine two years later, in September 2016, the UN Special Rapporteur found that while the Government had since taken important steps, such as the adoption of a law on internal displacement and the establishment of a ministry for IDP issues, «much more needs to be done» and there was reason to «urge the Government to intensify its efforts to protect the rights of IDPs from the conflict»<sup>12</sup>.

— In support of efforts towards an effective national response to internal displacement, the Government of Ukraine has sought technical assistance and advice on a number of issues. In particular, the Government as well as civil society regularly express interest in learning about how other countries have responded to specific challenges of internal displacement. To address this need, the Council of Europe, as part of its Action Plan for Ukraine 2015–2017, and more specifically as part of its project on «Strengthening the Human Rights of Internally Displaced Person in Ukraine»<sup>13</sup>, commissioned this guide.

### *Purpose of this guide:*

— This publication aims to provide guidance to the Government of Ukraine and all other actors engaged in responding to internal displacement in Ukraine. More specifically, it seeks to do so by identifying measures undertaken by other member states of the Council of Europe to address a number of issues regarding internal displacement that currently are being faced also in Ukraine.

— Certainly, every context of internal displacement is unique and presents its own specific challenges; there is no such thing as a «one size fits all» approach. Even so, it can be instructive and useful to learn about – and to learn from – other experiences. Indeed, the Parliamentary Assembly of the Council of Europe has recommended that member states affected by internal displacement «share experiences and good practices on achieving durable solutions for IDPs»<sup>14</sup>. Similarly, PACE

11 United Nations, Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons: Mission to Ukraine, Chaloka Beyani, UN doc. A/HRC/29/34/Add.3 (2 April 2015), para. 74.

12 United Nations, Office of the High Commissioner for Human Rights, «Ukraine: UN Expert Calls for Comprehensive Strategy to address IDPs' Plight as Winter Closes In,» Press Release, 9 September 2016.

13 More information about the Council of Europe project is available at: <http://www.coe.int/en/web/kyiv/idps>

14 PACE, Recommendation 1877 (2009), Europe's forgotten people: protecting the human rights of long-term displaced persons, available at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17759&lang=en>

has recommended that the Council of Europe «bring together representatives of IDPs from across Europe in order for them to share and learn from their different experiences»<sup>15</sup> and likewise that the Council of Europe facilitate experience sharing among national human rights institutions and ombudspersons from the regions that have long-term IDPs<sup>16</sup>. For Ukraine specifically, the UN Special Rapporteur on the Human Rights of Internally Displaced Persons has emphasized:

It is essential that Ukraine learn from the experiences of countries facing similar internal displacement challenges, such as Georgia, Azerbaijan and Serbia in which internal displacement has become protracted and durable solutions were delayed or neglected. Lessons must be learned from such situations to help Ukraine as it puts in place the necessary frameworks, structures and programmes to address the IDP situation [...]<sup>17</sup>.

#### *Target audience:*

— In keeping with its purpose to provide guidance to the Government of Ukraine and other actors engaged in responding to the situation of internal displacement, the primary intended audience of this guide encompasses governmental officials and civil servants in all relevant ministries and at all levels of government (state, regional, local administrations), parliamentarians, the office of the Ombudsman, and civil society, including IDP associations.

— Moreover, while this guide is focused on informing and assisting the response to internal displacement in Ukraine, the information it contains may also prove useful to authorities and stakeholders in other countries, in particular in other member states of the Council of Europe that currently are experiencing, or who in future may experience, internal displacement.

#### *Structure of this guide:*

— This guide explores experiences in other countries, in particular other Council of Europe member states, in addressing a number of issues relevant to the current situation of internal displacement in Ukraine and summarizes practices that may be instructive or otherwise valuable in informing and guiding shaping responses in Ukraine. A sep-

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15 *ibid*

16 *ibid.*

17 UN, Report of the Special Rapporteur on the Human Rights of IDPs: Ukraine, para. 69.

arate, brief online publication identifies some of the measures taken to date in Ukraine on many of these same issues and highlights potential good practices evident thus far. Although these two publications were commissioned as separate studies, an effort was made by the respective authors to ensure a certain coherence between these two studies, in particular through joint identification of priority research topics relevant for Ukraine.

— The Guide was originally drafted in late autumn 2016 in two parts, the first part covering international experiences and the second part addressing practices in Ukraine. The Guide is now printed as a *Guide to Good Practices by Council of Europe Member States*, with the section on Ukrainian experiences published online.

— Annexes provide references to further key guidance (Annex I) and append in full the Council of Europe Committee of Ministers' Recommendation to member states on internally displaced persons as well as the Council of Europe Parliamentary Assembly's resolution on solving property issues of refugees and internally displaced persons and its recommendation on protecting the human rights of long-term displaced persons (Annex II).

#### *Methodology and Scope:*

— Desk research was the primary methodology for this guide. This is entirely the case for the part which identifies, compiles, and analyses practices from Council of Europe member states. Field research and research interviews with practitioners in the various countries were not possible within the parameters of this publication<sup>18</sup>.

— For the online publication only, regarding practices in Ukraine, desk research was supplemented by consultations with stakeholders including state and regional government officials, IDPs, civil society and local non-governmental organizations (NGOs), UN agencies, international NGOs and Council of Europe staff working on IDP issues, in a number of IDP-affected regions, namely: Dnipro region, Donetsk region (Slovians'k, Kramators'k, and Svyatohirs'k), and Luhansk region (the city of Severodonetsk).

— Given that this compilation was commissioned for, and is primarily intended to, assist the Government of Ukraine and other stakeholders

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<sup>18</sup> Even so, the author of this publication I was able to draw upon her extensive field as well as research experience in internal displacement, since 1992, including field experience working on IDP issues in several Council of Europe member States.

to address the current situation of conflict-induced internal displacement in Ukraine, in terms of scope, this publication prioritizes practices relevant to situations of conflict-induced internal displacement. That being said, a number of the issues covered such as protecting populations from the risk of displacement, designating a national institutional focal point for coordinating the response to internal displacement, monitoring by the Ombudsperson of the rights of IDPs, and ensuring that IDPs have a say in the decisions impacting their lives, are relevant whatever the cause of internal displacement.

— In terms of geographic scope, this compilation of good practices focuses on practices from other member states of the Council of Europe. More fundamentally, factors reinforcing this decision to limit the geographic scope to Council of Europe member states include the common normative framework among Council of Europe member states in the form of the European Convention on Human Rights. Similarly, specific guidance and recommendations to its member states have been issued by Council of Europe organs including the Committee of Ministers and the Parliamentary Assembly of the Council of Europe. The shared historical legacy of a number of Council of Europe member states, in particular those of the former Soviet Union, also gives rise to a number of similar issues in situations of internal displacement. For instance, in a number of countries, challenges regarding IDPs' freedom of movement and their registration of temporary place of residence stem, at least in part, from the Soviet-era *propiska* system of tying certain rights to an individual's registered place of residence. Moreover, the system of state-owned communal property that historically was in place in a certain member states can give rise to analogous challenges regarding housing, land, and property claims. Indeed, in recommending that Ukraine consider the experience of other countries in addressing internal displacement, the UN Special Rapporteur on the Human Rights of Internally Displaced Persons has pointed in particular to other Council of Europe member states, emphasizing: «Ukraine is encouraged to learn from the experience of similar situations, including in the Balkans and Caucasus regions»<sup>19</sup>.

— This publication by no means claims to be a comprehensive study, but rather a compilation of selected state practices on selected issues of internal displacement. In selecting the thematic issues to be cov-

19 UN, Report of the Special Rapporteur on the Human Rights of IDPs: Ukraine, para. 97.

ered by this guide, priority was given to several of the issues and challenges that are currently being faced in Ukraine. The previous research, analysis, and consultations by the Council of Europe project, and various other organizations, on IDPs rights in Ukraine were insightful and informative in this regard. Moreover, certain issues, although pressing concerns for IDPs in Ukraine, were not included in this guide if they are covered to a significant extent in other publications. For instance, an analysis of the national legal framework relevant to IDPs' rights on a wide-range of topics is not covered in this publication, given the publication of the in-depth study, *Strengthening the National Legal Framework in Ukraine for Protecting the Human Rights of Internally Displaced Persons* published by the Council of Europe<sup>20</sup>. This guide can be read as a companion to that publication.

— By «state practices», this guide considers measures taken by all levels of government: central, regional, and municipal. Indeed, in any country experiencing internal displacement, all competent authorities, including not only central-level but also regional and local authorities, are integral to an effective national response. The separate online publication, on the response in Ukraine, also includes some practices initiated and implemented exclusively by non-governmental organizations (NGOs).

— Further, the term «good practices» that appears in the title of this guide requires a number of qualifications. «Good practice», sometimes referred to as «best practice», is a term for which there is no agreed definition, even among evaluation experts of international organizations<sup>21</sup>. Nor do individual organizations, including the Council of Europe and UNHCR, that have produced several «good practice» or «best practice» guides, utilize a standard definition or systematically define the term. One dictionary definition of «best practice» is «a procedure that has been shown by research and experience to produce optimal results and that is established or proposed as a standard suitable for widespread adoption»<sup>22</sup>. In recent years, international lexicon has tended to shift away from using the term «best practice», in favor of the more modest term «good practice», suggesting a useful, though not necessarily imperfect or ideal, measure. Indeed, it is important to understand, as UNHCR

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20 *Enhancing the National Legal Framework in Ukraine for Protecting the Human Rights of Internally Displaced Persons* (Council of Europe, 2016), available, also in Ukrainian, at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806a49d7>

21 See, for instance, the guidance issued by the United Nations Evaluation Group (UNEG), available at: <http://uneval.org>

22 Miriam Webster, available at: <http://www.merriam-webster.com/dictionary/best%20practice>

has emphasized, that ‘good practices’ are «certainly not perfect. They may address a part of the problem but not be comprehensive in scope. They likely present the best achievable solution to an issue in a difficult working environment»<sup>23</sup>. According to the definition helpfully put forth by the United Nations Food and Agriculture Organization:

A good practice is not only a practice that is good but a practice that has been proven to work well and to produce good results, and is therefore recommended as a model. It is a successful experience, which has been tested and validated, in the broad sense, which has been repeated and deserves to be shared so that a greater number of people can adopt it<sup>24</sup>.

— Certification of «good practices» requires a rigorous methodology including the systematic data collection and analysis against agreed standards and indicators<sup>25</sup>. Even then, UNHCR cautions: «It is important to realise that a good practice included in [a] guide may, by the time of publication, have encountered unforeseen implementation difficulties or dramatic changes in the physical environment due to armed conflict or political instability». Indeed, as UNHCR also points out: «A ‘good practice’ may, in the long run, later prove to exacerbate or create other protection problems»<sup>26</sup>. This underscores the importance of assessing practices and their consequences – both intended and unintended – over the long-term.

— For these reasons, plus the fact that, as noted above, the member state practices included in this guide were compiled through desk research rather than independent field-level assessment, the term «good practice» that appears in the title of this guide is rephrased as «examples of Council of Europe state practice» in the main text of this guide. This is not to discount the value of these practices, which at the time of implementation and in the aftermath, at least as the research possible within the parameters of this project allowed, have proven to be useful to address a particular challenge arising in a situation of internal displacement.

— Each practice included in this compilation therefore provides an example of a way to address a particular challenge arising in internal

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23 UNHCR, *Operational Protection in Camps and Settlements: A reference guide of good practices in the protection of refugees and other persons of concern* (2006), p. 11, available at: <http://www.refworld.org/pdfid/44b381994.pdf>

24 United Nations, Food and Agriculture Organization, *Good practices at FAO: Experience capitalization for continuous learning*, External Concept Note (September 2013), available at: <http://www.fao.org/docrep/017/ap784e/ap784e.pdf>

25 UNHCR, *Operational Protection in Camps and Settlements*, p. 13.

26 Ibid.

displacement which proved valuable in real-time in a real-life situation. These experiences from other countries usefully can inform and possibly may even inspire the Government of Ukraine and other actors engaged in responding to internal displacement in the design and implementation of their own interventions and response to similar challenges in Ukraine.



# SELECTED ISSUES IN INTERNAL DISPLACEMENT AND EXAMPLES OF COUNCIL OF EUROPE MEMBER STATES' PRACTICE

## PROTECTING POPULATIONS from the RISK of DISPLACEMENT

Key

message

«Member states should develop preventive measures to be implemented in the event of crises which could lead to internal displacement».

*Council of Europe, Committee of Ministers,  
Recommendation on Internally Displaced Persons*

**P**reventing the conditions that compel people to flee from their homes and therefore to become displaced is a core responsibility of a state. The *Guiding Principles on Internal Displacement*, to which Council of Europe member states have expressed their commitment, emphasize in Principle 5: «All authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights law and humanitarian law in all circumstances so as to prevent and avoid conditions that might lead to displacement of persons». Principle 6 articulates the right of all persons to be «protected against being

arbitrary displaced from his or her home or place of habitual residence» and spells out the circumstances under which displacement would be arbitrary and therefore is prohibited. These circumstances include: «situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand»; cases when displacement is based on policies of «ethnic cleansing»; and whenever displacement is used as collective punishment. The guarantees that must be met for displacement to be considered lawful are set out in Principles 7 through 9.

— Flowing from the Guiding Principles, minimum essential elements of state regulation include for a state to:

- (1) Recognize the right to be free from arbitrary displacement;
- (2) Penalize arbitrary displacement in domestic law under circumstances in which it amounts to a crime against humanity or war crime in accordance with the Rome Statute;
- (3) Take penal and administrative measures to ensure compliance with relevant rules of international law, including rules on the conduct of hostilities and the duty to distinguish between civilians and combatants and between civilian objects and military objectives<sup>27</sup>.

— Indeed, minimizing unavoidable displacement and mitigating the adverse effects of any displacement that occurs is considered a benchmark of national responsibility for addressing internal displacement. In this regard, the *Framework for National Responsibility* emphasizes the importance of governments undertaking «preventive strategies, including cultivating an environment of respect for human rights and international humanitarian law as well as developing early warning and rapid response mechanisms to protect populations under threat»<sup>28</sup>.

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27 *Protecting Internally Displaced Persons: A Manual for Law and Policymakers* (Brookings-Bern Project on Internal Displacement, 2008), p. 264. [Hereinafter: Manual for Law and Policymakers]. The extent to which Ukraine is meeting the various minimum essential elements of state regulation in a situation of internal displacement is analyzed in the aforementioned legal baseline study: *Enhancing the National Legal Framework in Ukraine for Protecting the Human Rights of Internally Displaced Persons*.

28 *Addressing Internal Displacement: A Framework for National Responsibility* (Brookings-Bern Project on Internal Displacement, 2005), Benchmark 1, pp. 12–13.

— The Council of Europe has emphasized the importance of member states taking measures to avoid and attenuate the conditions that cause involuntary displacement. The Committee of Ministers recommends: «With a view to limiting the adverse consequences of internal displacement, member states should develop preventive measures such as strategic action plans, to be implemented in the event of crises which could lead to internal displacement»<sup>29</sup>. The Explanatory Memorandum to the Recommendation elaborates that in addition to developing such strategic action plans, other examples of preventive measures could include «the setting-up of an adequate system of registration of property with a view to facilitating repossession of IDPs upon their return» and regarding the prevention of natural or human-made disasters, accession to relevant international agreements, including the Kyoto Protocol and the United Nations Framework Convention on Climate Change, and the development of effective early warning systems<sup>30</sup>.

EXAMPLE of Council of Europe state practice	National legislation prohibiting arbitrary displacement
<p>In <b>Georgia</b>, the Criminal Code criminalizes displacement that amounts to genocide or crimes against humanity<sup>31</sup>.</p> <p>In <b>Germany</b>, national legislation provides for the prosecution for war crimes of anyone who, in connection with an international or non-international conflict «deports or forcibly transfers, by expulsion or other coercive acts, a person who is to be protected under international humanitarian law and lawfully present in an area to another state or another area in contravention of a general rule of international law»<sup>32</sup>.</p>	

29 Council of Europe CoM, Rec. on IDPs, para. 10.

30 Council of Europe CoM Ministers' Deputies, Explanatory Memorandum to CoM Rec. on IDPs, CM (2006)36 Add., 8 March 2006.

31 Georgia, *Criminal Code of Georgia* (1999).

32 Germany, *Law Introducing the International Crimes Code*, Article 1, Section 8(1)(6) cited in Legislators' Manual, p. 49.

EXAMPLE of Council of Europe state practice	<b>A legal right to disaster-risk information</b>
<p>The <b>Russian Federation's</b> 1994 disaster management law provides that «citizens [...] have the right to be informed of hazard[s] they can be exposed to at certain places of their residence within the [Russian Federation's] territory as well as safety provision measures»<sup>33</sup>.</p> <p><b>Belgium</b> and the <b>United Kingdom</b> which, like Ukraine, are state parties to the <i>Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters</i> have codified a specific governmental responsibility to provide information about environmental hazards to the public, upon request<sup>34</sup>.</p>	

EXAMPLE of Council of Europe state practice	<b>National legislation regulating evacuations of persons at risk</b>
<p>In <b>Georgia</b>, national legislation, namely the Law on State Emergency and the Law on State of Martial Law, prescribes the conditions under which it is not only legitimate but an obligation of the state to evacuate populations in order to protect them from danger<sup>35</sup>.</p>	

## DATA COLLECTION

Key message

«The Parliamentary Assembly [of the Council of Europe] underlines the importance of establishing appropriate population data management to obtain an idea of the number, the location and the living conditions of IDPs [...] so as to be able to meet their needs and protect their rights».

PACE Committee on Migration, Refugees and Displaced Persons<sup>36</sup>

33 *Manual for Law and Policy Makers*, p. 57, citing Russian Federation, Law on Protection of Population and Areas from Natural Disasters and Human-Created Accidents (21 December 1994), Article 18(1), available at: [www.adrc.or.jp/management/RUS/Russia\\_Statute1.htm&Lang=en&NationCode=643](http://www.adrc.or.jp/management/RUS/Russia_Statute1.htm&Lang=en&NationCode=643)

34 *Manual for Law and Policymakers*, p. 57.

35 Georgia, Law on State Emergency, 17 October 1997; and Law on State of Martial Law, 31 October 1997.

36 PACE, Draft resolution of the Committee on Migration, Refugees, and Displaced Persons, adopted on 13 March 2004, para. 3, Doc. 13507 (5 May 2014), Alternatives to Europe's standard IDP and refugee collective centres.

If and when internal displacement occurs, accurate information on the number, location, and condition of IDPs is essential. This data should inform the design and implementation of national legislation, policies, and programs for IDPs. It also can be critically important to ensuring that adequate resources (national as well as international) are allocated and mobilized for the IDP response. Indeed, in any country experiencing internal displacement, a government's collection of such data is considered a benchmark of national responsibility.

— The *Framework for National Responsibility* elaborates a number of expectations regarding such data collection. First, data should be disaggregated by age, gender, and other key demographic indicators, so the specific needs of particular groups of IDPs, such as women heads of household, unaccompanied minors, persons with disabilities, and minority groups, are understood and adequately addressed. It must cover all IDPs irrespective of their location and whether they are living in camps or other settlements, staying with host families, or living on their own in private accommodation. In a country where multiple causes of displacement exist (e.g. due to conflict and due to disasters), data collection efforts should encompass all groups of IDPs, while pinpointing their differential needs. Information is needed not only on IDPs in the initial emergency stages of displacement but also those in protracted situations of displacement. This point underscores the importance of regularly updating data as IDPs' needs as well as their numbers and locations change over time. Further, although it can be challenging for obvious reasons, efforts must be made to collect information about displaced populations who live in areas that temporarily fall outside of the effective territorial control of the government, e.g. in areas under occupation or areas under the control of insurgent groups. Finally, efforts to collect data about IDPs must be humanitarian in purpose and «should not in any way jeopardize their security, protection, and freedom of movement»<sup>37</sup>.

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37 *Framework for National Responsibility*, pp. 14–15.

— In line with and drawing upon the *Framework for National Responsibility*, the *Manual for Legislators and Policymakers* provides that among the minimum essential elements of state regulation in a situation of internal displacement is for the state to «establish systems for the relevant and private collection of data relating to internal displacement». Emphasizing that «[t]here is no single correct way to collect accurate information on internal displacement», the Manual points out that «[d]ata collection is not identical with registration» of IDPs, although «registration may serve as one source of information among others». Among possible data collection modalities is the specific methodology of so-called «IDP profiling» defined as «the collaborative process of identifying internally displaced groups or individuals through data collection, including counting, and analysis, in order to take action to advocate on their behalf, to protect and assist them and, eventually, to help bring about a solution to their displacement»<sup>38</sup>.

— UN resolutions recognize «the need to collect reliable disaggregated data, including data disaggregated by sex, age and location and the impact of long-term displacement on host communities in order to improve policy, programming and response to internal displacement» and encourage governments and partners «to ensure the provision of reliable data on internal displacement situations». To support governments and partners in such data collection efforts, UN resolutions have further encouraged governments to make use of, on a voluntary basis, the services of the inter-agency Joint IDP Profiling Services (JIPS) which has been set up specifically to offer technical support to governments (as well as humanitarian agencies and development actors) seeking to improve their information about a country's internally displaced population<sup>39</sup>.

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38 *Guidance on Profiling Internally Displaced Persons* (Norwegian Refugee Council, IDMC and OCHA, 2008), p. 5.

39 For information on JIPS and how to request its support, see: [www.jips.org](http://www.jips.org)

*EXAMPLE of  
Council of Europe  
state practice*

**Government-requested academic surveys  
of IDPs by a local university**

**Turkey** experienced significant internal displacement as a result of conflict with insurgency groups in its southeastern provinces during the early 1990s. One factor complicating a response was the fact that it took place during a period of rapid urbanization and high internal migration, leading to uncertainty regarding the number of IDPs and the distinction between them and economic migrants. In order to address this, the UN Representative of the Secretary-General, Francis Deng, recommended the collection of comprehensive and reliable data on the nature and scale of the problem, including the number of persons displaced and «their current whereabouts, conditions and specific needs, and [...] their intentions with respect to return or resettlement»<sup>40</sup>. The Turkish government accordingly requested the Institute of Population Studies of Hacettepe University to assess the future plans of IDPs as well as their current circumstances. The findings of the survey, which were released in December 2006, provided detailed information gained through a mix of qualitative and quantitative techniques<sup>41</sup>. The report was welcomed as «an excellent basis for the Government to build on in planning programmes and strategies to address the challenges of finding durable solutions for internally displaced persons»<sup>42</sup>. In 2010, the findings of a second survey on the needs and perceptions of IDPs, based on 4,000 interviews in 13 provinces, were released, providing national and local authorities with a sound empirical basis for the development of action plans to assist and protect IDPs<sup>43</sup>.

40 United Nations, Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng, submitted pursuant to Commission on Human Rights Resolution 2002/56, Addendum, «Profiles in Displacement: Turkey», UN Doc. E/CN.4/2003/86/Add.2 (27 November 2002), para. 36.

41 See Institute of Population Studies, *Survey on Migration and Displaced Population*, available at: [www.hips.hacettepe.edu/tr/english/tgyona\\_eng.htm](http://www.hips.hacettepe.edu/tr/english/tgyona_eng.htm)

42 United Nations, Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Mr. Walter Kalin, UN doc. A/62/2227 (13 August 2007), para. 12.

43 *Manual for Legislators and Policymakers*, p. 26; *IASC Framework on Durable Solutions for Internally Displaced Persons* (Brookings-Bern Project on Internal Displacement, 2010), p. 17, citing Institute of Population Studies, «Survey on Migration and Displaced Population», available at: [www.hips.hacettepe.edu/tr/english/tryona\\_eng.htm](http://www.hips.hacettepe.edu/tr/english/tryona_eng.htm)

EXAMPLE of Council of Europe state practice	Profiling a situation of internal displacement to inform durable solutions
<p>Authorities in <b>Kosovo</b><sup>44</sup> and <b>Serbia</b> began collaborating in 2014 to determine the number and needs of populations who are still internally displaced within Kosovo. The Government of Kosovo's Ministry for Communities and Return, as part of its 2014–2018 strategy, initiated a profiling exercise to develop a comprehensive analysis of the protracted displacement situation in Kosovo. The primary aim of the profiling is to inform programming, advocacy and policy work on durable solutions by providing an evidence-based analysis of the displacement situation in Kosovo, based on the IASC <i>Framework for Durable Solutions to Internal Displacement</i>. The findings from the profiling are intended also to inform the MCR's development of a strategy for durable solutions to internal displacement in Kosovo.</p> <p>To reach consensus on the baseline population estimates of IDP figures (in order to inform the methodology) and on the information requirements to be addressed by the profiling, a collaborative and multi-stakeholder process has been essential. Moreover, given the complex political context of Kosovo, it was important to engage not only authorities from Kosovo but also those from Serbia. Specifically, with technical support from the Joint IDP Profiling Service (JIPS)<sup>45</sup> and Statistics Norway, governmental and other partners in both Kosovo and Serbia worked towards consolidating existing government databases regarding populations displaced within Kosovo. A Profiling Management Group (PMG), comprised of the Kosovo Ministry of Communities and Return, the Government of Serbia's Commissariat for Refugees and Migration, the Kosovo Agency for Statistics (KAS), the International Organization for Migration (IOM), UNDP, UNHCR, and the Danish Refugee Council (DRC) was established to oversee the profiling exercise. Supplementing this forum is a Profiling Working Group that, in addition to all of the organizations involved in the PMG, also encompasses UN Population Fund (UNFPA), UN Children's Fund (UNICEF) and the Organization for Security and Cooperation in Europe (OSCE). To assess the extent to which IDPs in Kosovo have achieved a durable solution to their displacement, partners have agreed upon a list of indicators based upon the <i>Framework for Durable Solutions to Internal Displacement</i>.</p>	

44 All references to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nation's Security Council Resolution 1244 and without prejudice to the status of Kosovo.

45 For more information on JIPS, see: <http://www.jips.org/en/home>



## CIVIL DOCUMENTATION

Key  
message

*«Internally displaced persons shall be provided with all documents necessary for the effective exercise of their rights as soon as possible following their displacement and without unreasonable conditions being imposed».*

*Council of Europe, Committee of Ministers,  
Recommendation on Internally Displaced Persons*

Enjoyment of many human rights is contingent upon an individual's recognition as a person before the law. Typically, this is evidenced through official identification documentation and other documents attesting to an individual's civil status. In the course of displacement, these documents are often left behind, lost, destroyed, or even confiscated. Without such documents, IDPs face tremendous difficulties accessing a wide range of rights, for instance, moving freely within the country, accessing life-saving assistance, attending school or university, accessing health care and social services, working in the formal sector, accessing their pension, voting, or even renting an apartment or opening a bank account. Lack of documentation also complicates efforts to reunify families separated during displacement and exposes IDPs, in particular children, women, and minority groups, to heightened risk of abuses, including trafficking, illegal adoption, and child recruitment. In summary, and as the Council of Europe has emphasized:

The right to recognition everywhere as a person before the law is of great importance for IDPs, particularly in so far as it implies access to personal identification documentation, such as certificates of birth, marriage, or death as well as identity cards. Indeed, many problems emerge from the lack of such documentation, from lack of access to social services, formal employment, banks and education, to the inability to register to vote, essentially rendering IDPs aliens in their own country<sup>46</sup>.

— The right to recognition everywhere as a person before the law is well established in international human rights law as well as in regional standards, including the ECHR. Principle 20 of the Guiding Principles reaffirms this right and explains that in a situation of internal displacement:

<sup>46</sup> Council of Europe, Explanatory Memo to Council of Europe CoM Rec. on IDPs.

To give effect to this right for internally displaced persons, the authorities concerned shall issue to them all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates, and marriage certificates. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions, such as requiring the return to one's area of habitual residence in order to obtain these documents.

— To ensure that IDPs are able to enjoy their right to recognition everywhere as a person before the law, as a «minimum essential element of state regulation», states are expected to «establish institutional mechanisms and facilitated procedures for issuing, or re-issuing, essential documentation to IDPs through facilitated procedures, including use of official records and alternative forms of evidence available to IDPs»<sup>47</sup>.

— The Council of Europe Committee of Ministers has emphasized: «Internally displaced persons shall be provided with all documents necessary for the effective exercise of their rights as soon as possible following their displacement and without unreasonable conditions being imposed». The Explanatory Memorandum to this Recommendation explains that the «[d]ocuments that IDPs should possess can either be the original ones, new documents issued in replacement of these documents or any new documents required in order to benefit from the rights IDPs are entitled to». Furthermore, the Council of Europe recommends:

In practice, it is useful, with a view to implementing and giving effect to [Guiding] Principle 20, to recognize *de facto* addresses for the issuing of documents or to waive the cost of documents, if this is what prevents effective access to them. The creation of specific institutions or [...] offices may also facilitate the issuing of these documents<sup>48</sup>.

— A number of Council of Europe member states have taken measures to ensure IDPs have access to the documents needed to exercise their rights. Below are some examples of such measures.

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<sup>47</sup> *Manual for Legislators and Policymakers*, p. 266. See also *ibid.*, pp. 157–168.

<sup>48</sup> Council of Europe, Explanatory Memo to Council of Europe CoM Rec. on IDPs.

<p><i>EXAMPLE of Council of Europe state practice</i></p>	<p><b>Discounted administrative fees for IDPs to obtain civil documentation and civil status decisions</b></p>
<p>In <b>Serbia</b>, the Law on Administrative Fees provides for discounts to IDPs for the issuance of certain civil status decisions and civil documents. Specifically, to the general provision regarding decisions on: ‘ (1) subsequent registration of birth, marriage and death registry books; (2) change of personal name; and (3) conclusion of marriage through a proxy’, the Law was amended to include the following note:</p> <p style="padding-left: 40px;">Refugees and displaced persons from the territory of the Socialist Federative Republic of Yugoslavia [...] and internally displaced persons from Autonomous Province of Kosovo and Methoija [...] will pay the fee [...] reduced by 70 %, on the grounds of appropriate documents provide their status<sup>49</sup>.</p>	

<p><i>EXAMPLE of Council of Europe state practice</i></p>	<p><b>Combining civil registration and voter identification as well as allowing a range of documents to attest to a displaced person’s «habitual residence»</b></p>
<p>In <b>Kosovo</b>, countless IDPs and refugees from the conflict had lost or been stripped of their civil documents and many municipal records of these documents had been lost or destroyed. As such, many displaced people (IDPs and refugees) lacked official civil registration documents attesting to their place of residence prior to displacement, resulting in tremendous difficulties to their access of a range of rights. In 2000, municipal elections were to be held which, according to the electoral legislation in place, would allow only voting by «habitual residents», provided they could prove residence in Kosovo on or before 1 January 1998, that is, prior to the escalation of hostilities in 1998 through mid-1999. In advance of the elections, a nationwide civil registration program was launched that, in addition to serving the purposes of re-registering individuals who no longer had their civil registration documents, also was to serve as a basis for voter registration. The regulations concerning civil registration allowed a wide range of documents to be accepted to attest to one’s pre-displacement residence, including utility bills, student ID cards, and membership cards in various established clubs and associations.</p>	

<sup>49</sup> Adapted from *Manual for Legislators and Policymakers*, p. 166, citing Law on Administrative Fees of the Republic of Serbia, Official Gazette, No. 43/2003, 51/2003, 61/2005, and 101/2005.

The United Mission in Kosovo (UNMIK) and OSCE established a Joint Registration Taskforce (JRT) to administer the civil registration. Persons lacking civil documents filled in detailed questionnaires regarding their claims to eligibility; completed forms then were forwarded to the individual's municipality of origin for verification. As the volume of claims rose, the JRT established a second-level «inquiry» division, which was initially designed to combat fraud through a random sampling of applicants. However, as the caseload of undocumented registrants grew significantly, this inquiry division became the primary mechanism through which applicants who could not be identified through the review procedure would be provided one final opportunity to assert their claim and have their status verified. Ultimately, these temporary review and inquiry divisions established for the elections processed some 113,00 cases, approving the vast majority<sup>50</sup>.

<i>EXAMPLE of Council of Europe state practice</i>	<b>Facilitating access to civil status documentation for IDPs who lacked or had little access to documentation prior to displacement</b>
<p>In <b>Kosovo</b>, among Roma IDPs, lack of access to civil documentation was a widespread problem even prior to their displacement. In May 2006, the Kosovo Provisional Institutions of Self-Government sought to address this problem through a policy document issued by the Prime Minister to facilitate civil registration and identity documentation issuance for Roma, Ashkali and Egyptian minority groups. This was to be done in a timely manner without any late fee penalties for such pending requests. Specifically, the policy provided:</p> <p style="padding-left: 40px;">3.c. Recognizing there is a backlog of requests for civil registration documentation, municipalities are instructed to ensure that pending registration requests for Roma, Ashkali, and Egyptians are completed in the next six months. No late fees for these administrative services shall apply to these groups<sup>51</sup>.</p>	

50 Adapted from *Manual for Legislators and Policymakers*, p. 15, citing OSCE Inquiry Division, Final Report (October 2000), p. 3.

51 «Recommendations to Updating Return Policies and Procedures» (PISG, 21 April 2006), in «Revised Manual for Sustainable Return,» UNMIK/PISG (July 2006), Annex I, p. 45, cited in *Manual for Legislators and Policymakers*, p. 160.

Officials also were requested in the same administrative instruction to demonstrate flexibility with regard to the proof of identity and of civil status provided by these groups.

Concurrently, UNHCR implemented a civil registration campaign targeting the Roma population through the production and dissemination of public information material and media announcements plus the provision of legal assistance, including through mobile teams so as to better access marginalized communities<sup>52</sup>.

<i>EXAMPLE of Council of Europe state practice</i>	<b>Use of witness statements to establish the identity of IDPs without identification documentation for the purposes of civil registration and voting</b>
<p>In <b>Kosovo</b>, in overseeing a civil registration exercise, the United Nations Mission in Kosovo (UNMIK) recognized the need to take into account and address, through special measures, that in addition to the documentation problems generally faced by IDPs (loss, deprivation, destruction of documents), for IDPs from the Roma population, many suffered from a lack of documents, even prior to displacement. UNMIK therefore set out rules for the civil registration exercise allowing alternative forms of evidence to be submitted and supplemented with witness statements. Specifically:</p>	
<p>Pursuant to sections 4.1 and 4.2 of UNMIK Regulation No. 2000/13, persons applying for inclusion in the register shall establish their identity and their eligibility for registration to the satisfaction of the Civil Registrar, through one of the following methods:</p>	
<ul style="list-style-type: none"><li>(a) An official document issued by any state or organ thereof, including an identification card, passport or any other travel document containing the photograph or fingerprint of the applicant;</li><li>(b) Other documents issued by a state or organ thereof, or by an agency or organ of the United Nations, supported when necessary by independent corroborative evidence, either written or oral; or</li><li>(c) Other documents issued prior to 10 June 1999 by other entities including, but not limited to, educational, health, political and religious institutions, public utilities and other quasi-official bodies, supported by independent corroborative evidence whether written or oral.</li></ul>	

52 *Manual for Legislators and Policymakers*, p. 161.

Applicable Kosovo legislation on habitual residency registration and administrative procedure foresees the possibility of using witness statements as a supplementary way to collect evidence about relevant facts. In the case of civil status and habitual residency registration these statements constitute a supplementary source of evidence concerning the applicant's identity and eligibility for registration.

A subsequent UNMIK Administrative Direction No. 2001/12102 stipulates that in case the applicant is unable to provide specified written documentation on his/her identify, the «registration staff may consider other documents, and statements of witnesses, as evidence of identity in accordance with Civil Registry procedures, consistent with section 4 of UNMIK regulation No. 2000/13». In the process of establishing the applicant's eligibility for habitual residency registration, it further provides: «In addition to the evaluation and review of documents presented by applicants at the registration centre, registration centre staff may consider the statement of witnesses»<sup>53</sup>.

<i>EXAMPLE of Council of Europe state practice</i>	<b>International facilitation of IDP requests for civil documentation</b>
<p>In <b>Bosnia and Herzegovina</b>, in advance of the elections held in 1996 and 1997, the Organization for Security and Cooperation in Europe (OSCE) worked with relevant authorities to establish procedures allowing persons lacking official identity documents to petition authorities in their home municipalities for documentary proof of their voter eligibility. More specifically, a Citizenship Verification Sub-Commission was established to assist individuals who were not listed on the 1991 census and were thus unable to produce documentation such as a citizenship certificates or official stamps referred to as «receipts» issued by municipal authorities. Because security concerns prevented many IDPs from physically returning to their home municipalities to request replacement documents, the procedures included a formal role for international facilitation of documentation requests, specifically:</p> <p>In those cases where an individual has difficulty obtaining a receipt from a municipality, a representative of the OSCE is given the authority to make a written request for a receipt to the municipality on the</p>	

53 OSCE/UNMIK, «Civil Registration of Persons Belonging to the Roma, Ashkali and Egyptian Communities: Finding of a Monitoring Exercise» (26 June 2007), pp. 27 and 31, cited in *Manual for Legislators and Policymakers*, pp. 165–6.

individual's behalf. In those cases, the municipality shall, within five days of the request, produce either the receipt or full written reasons why the receipt cannot be produced<sup>54</sup>.

## FREEDOM of MOVEMENT

### Key message

*Freedom of movement is critically important in all phases of internal displacement: prior to displacement, during displacement, and in the search for durable solutions. It underpins IDPs' ability to exercise their rights and to access the protection, assistance, and solutions they require.*

**P**rior to displacement, the right to freedom of movement is integral to civilians' protection from arbitrary displacement and to their ability – and right – to flee. During displacement, freedom of movement is essential not only to IDPs' search for a safe location but also to many aspects of their daily lives, including the ability to exercise a range of other rights such as the right to education, to work, to access public services etc. Freedom of movement also underpins solutions to displacement, in particular, whether IDPs are able to voluntarily return, in safety and in dignity, to their homes or, should they so choose, to settle elsewhere in the country; also, to be protected against forcible return or resettlement to areas where their lives would be at risk. Moreover, connected to the right to freedom of movement is the right to seek asylum from persecution in another country if national protection is unavailable.

— Obstacles to freedom of movement can arise in all phases of internal displacement, and indeed even before displacement occurs (e.g. besiegement of civilian populations during conflict). Some of the complications that have arisen in Ukraine concern the civilians' ability to safely flee zones of conflict, to safely cross back and forth across the Administrative Boundary Line (ABL) and to fully enjoy their rights even while outside of their registered place of residence, i.e. while internally displaced. For each of these issues, selected state practice from other member States of the Council of Europe may be useful to consider.

54 Adapted from *Manual for Legislators and Policymakers*, p. 163, citing Article 17.1 of the Rules and Regulations.

<p>EXAMPLE of Council of Europe state practice</p>	<p><b>Repeal of Soviet-era <i>propiska</i> controls on movement</b></p>
<p>In <b>Georgia</b>, although the Constitution guarantees, in Article 22, the right to free movement and choice of residence for all persons staying legally within the territory of Georgia, the Soviet <i>propiska</i> system of mandatory registration of residence remained in force for several years after Georgia's independence in 1991. This «internal passport» system constituted an obstacle to freedom of movement and to other rights (e.g. to education, to own property, to vote) for all citizens of Georgia, and particularly its internally displaced population. After extensive advocacy by civil society as well as regional and international organizations, the «<i>propiska</i>» system was abolished in Georgia in 1996. This move was widely welcomed by local and international observers, including the UN Human Rights Committee<sup>55</sup>.</p>	

<p>EXAMPLE of Council of Europe state practice</p>	<p><b>Introduction of universal license plates to facilitate safe free movement across boundary lines</b></p>
<p>In <b>Bosnia and Herzegovina (BiH)</b>, even well after the conflict ended with the Dayton Peace Agreement (DPA) of December 1995, it proved difficult for many civilians to move freely and safely within the country. This was despite the fact that freedom of movement throughout the country was guaranteed in Article 1(4) of the Constitution of Bi H. Particularly problematic was the crossing of the Inter-Entity Boundary Line (IEBL) between the two defined entities, the <i>Republika Srpska</i> and the Federation of BiH, that had been established as part of the DPA (and which remain in existence to this day). While trying to cross the IEBL, travellers often faced ethnically based harassment, including threats, beatings, and arrests. Victims were often singled out on the basis of their vehicle's licence plate, which visibly indicated their registered place of residence, thereby indicating whether they were living in a predominantly Bosniak (Muslim), Bosnian Serb, or Bosnian Croat area. The abuses, which often were perpetrated by members of the security forces at illegal checkpoints, had the clear intent, or at the very least, the effect, to dissuade civilians of specific ethnic groups from travelling between</p>	

<sup>55</sup> Adapted from *Manual for Legislators and Policymakers*, p. 84.



the entities, which was essential for many displaced persons in order to exercise their right to return.

To address this problem, in February 1998, the Office of the High Representative (OHR) – an international position established as part of the DPA and vested with significant administrative power in the post-conflict period – brokered an agreement between the Government of BiH and the Governments of both Entities which enabled the OHR to introduce in the country a system of universal license plates which do not identify the place of vehicle registration. Within the first few months, between April and July 1998, vehicular traffic across the IEBL doubled<sup>56</sup>.

The impact of the introduction of a universal license plate system cannot be understated. In the words of one assessment: «It was an ingenious and innovative response» by UN and OHR [...] officials on the ground to what had become a major obstacle to freedom of movement, and its immediate effect was to reduce the scope for violence and intimidation»<sup>57</sup>.

<i>EXAMPLE of Council of Europe state practice</i>	<b>A free bus service to enhance freedom of movement and foster confidence building between war-torn communities</b>
<p>In <b>Bosnia and Herzegovina</b> (BiH), despite an end to the conflict in December 1995 with the Dayton Peace Agreement (DPA) which guaranteed the right to freedom of movement and the right of IDPs and refugees to return to their homes, displaced persons who were now in the minority ethnic community in their home area were fearful to return or even to briefly visit home to assess whether they wished to return; indeed, ethnically-motivated physical attacks on so called «minority returnees» were common. In the words of one analysis:</p> <p>By late spring of 1996, it was obvious to UNHCR that the assessment visit strategy was not working and that the dividing lines between the entities were hardening into <i>de facto</i> borders. It was equally clear that tens</p>	

56 Office of the High Representative (OHR), 11th Report of the High Representative for Implementation of the Peace Agreement, to the Secretary-General of the United Nations (14 October 1998), para. 80.

57 Mats Berdal, Gemma Collantes-Celador, and Merimz Zupcevic Buzadic, «Post-war Violence in Bosnia and Herzegovina», *The Peace in Between: Post-war Violence and Peacebuilding*, Mats Berdal and Astri Surkhe (eds.), (Routledge, 2013), p. 82.

of thousands of 'minority' Bosnians desperately wanted to cross the lines to visit their former towns, get in contact with family members and friends, find out whether their former houses were still standing and, if so, who was occupying them<sup>58</sup>.

UNHCR took the initiative to open and run a free bus service along major axes of potential return of displaced persons, including across the Inter-Entity Boundary Line (IEBL) established between the warring parties as part of the DPA. Due to the evident serious threats to minorities' safety, initially many bus routes were escorted by international armed and police forces (IFOR and IPTF) and were monitored from the air. Indeed, in the initial phase of operation, the buses sometimes did face resistance from authorities at checkpoints and physical harassment from the local community, though these incidents eventually subsided.

By the end of 2006, 11 such bus lines were operating, providing transportation to up to 1,000 passengers a day who wished to visit their home area. At its peak in 1998, 25 such bus lines were in operation, jointly run by UNHCR and the Danish Refugee Council (DRC). By the end of 2002, UNHCR was able to commercialize all of the bus lines through handover to private companies.

In addition to improving freedom of movement, the buses also served to increase contact and build confidence between war-torn communities. The bus lines enabled hundreds of thousands of IDPs and refugees to visit their former homes and re-establish pre-war links. Indeed, a survey conducted by UNHCR in December 1998 revealed that for many people, these buses were the only way to travel to the other entity, to visit their pre-war homes, and to re-establish contact with friends and relatives. The International Crisis Group concluded «there is no doubt that it was an important confidence-building effort and promoted freedom of movement across the former confrontation lines»<sup>59</sup>.

In **Kosovo**, UNHCR established a similar bus line program in 1999 to facilitate freedom of movement for ethnic minorities. The first two buses enabled ethnic Serbs to travel outside of their villages to shop and see relatives in other villages for the first time in months. Primarily intended to benefit

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58 International Crisis Group, «Going Nowhere Fast: Refugees and Internally Displaced Persons in Bosnia,» 30 April 1997, section 1.4.

59 IDMC, *Profile of Internal Displacement in Bosnia and Herzegovina* (28 January 2004), citing UNHCR, «Update of UNHCR's Position on Categories of Persons from Bosnia and Herzegovina who are in Continued Need of International Protection,» May 1999; and *ibid.*

minority Serbs, ethnic Albanians and any other civilians were welcome to use the service. In 2006, in recognition of the fact that freedom of movement remained a problem for ethnic minorities in Kosovo, the UN Interim Mission in Kosovo (UNMIK) transferred responsibility for the «humanitarian bus service» to the Government, namely the Ministry of Transport and Communication, rather than commercialize the service<sup>60</sup>. This transfer of responsibility came with assurances from the Government that any changes to the then existing services would be undertaken on the basis of participation by Kosovo's ethnic communities. More concretely, the Ministry issued an administrative instruction in 2007 spelling out the procedures for submitting and assessing requests for the bus service, including providing an appeals procedure:

#### Article 2: Requests for Humanitarian Bus Transportation

2.1. A minimum of 10 inhabitants of locations that are not included along the existing Routes, and claim that their freedom of movement is limited, shall be entitled to request that their locations be reached by the humanitarian bus transportation service.

2.2. For this purpose, they shall submit jointly a Request either for the creation of a new route or for the extension or modification of an existing route<sup>61</sup>.

A Technical Commission is obliged to decide on any such request within 90 days of receipt, based on a standardized assessment process. In cases of negative decisions or «administrative silence», the administrative instruction provided clear instructions for an appeals procedure.

## ADEQUATE Housing during DISPLACEMENT

### Key message

*«All internally displaced persons have the right to an adequate standard of living. At the minimum, and regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to [...] basic shelter and adequate housing».*

*Guiding Principles on Internal Displacement,  
Principle 18*

60 UN News Service, «In Step Forward, Kosovo Government Takes Over Minority Transportation from UN», Press Release (31 August 2006).

61 Provisional Institutions of Self-Government in Kosovo, Ministry of Transport and Communications, Administrative Instruction No. 3007/6, «Procedure for the Submission and Assessment of Requests for Humanitarian Bus Transportation» (24 December 2007), cited in *Manual for Legislators and Policymakers*, p. 91.

In addition to recognizing IDPs' right to basic shelter and adequate housing, minimum essential elements of state regulation regarding this right are for states to:

- ◆ Designate a governmental agency responsible for addressing shelter and housing needs of IDPs;
- ◆ Seek and accept support from the international community if needs cannot be sufficiently satisfied at the domestic level;
- ◆ Establish procedures to identify and prioritize beneficiaries of basic shelter and adequate housing on the basis of need and particular vulnerability;
- ◆ Remove legal obstacles as contained, e.g. in building and similar codes, for the construction of transitional shelters or the rebuilding of houses in return or relocation areas;
- ◆ Create specific guarantees to protect IDPs against forced evictions where general guarantees are insufficient<sup>62</sup>.

Detailed guidance on each of these issues falls outside of the space constraints of this publication but can be found elsewhere<sup>63</sup>. What is important to emphasize here is to ensure that collective centres or other emergency shelter for IDPs remains temporary and that a transition to more dignified housing, with security of tenure, occurs as soon as possible. Moreover, housing solutions for IDPs should encompass a range of different possible options that are tailored to the different vulnerabilities and capacities of IDPs.

<i>EXAMPLE of Council of Europe state practice</i>	<b>Tailored housing solutions based on IDPs' differential vulnerabilities and capacities</b>
In <b>Georgia</b> , while also promoting the creation of conditions enabling IDPs' eventual safe and voluntary return to their homes, the State Strategy for IDPs of 2007 also introduced the goal of «improving the living conditions of IDPs» while they are displaced. A number of measures to be taken towards realizing this aim concern IDPs' housing situation. For instance, Chapter V of the	

<sup>62</sup> *Manual for Legislators and Policymakers*, p. 266.

<sup>63</sup> See, for example, *Collective Centre Guidelines* (UNHCR and IOM, 2010), available in English and several other languages including French and Spanish at: <http://www.globalccmcluster.org/tools-and-guidance/publications/collective-centre-guidelines>; *Manual for Legislators and Policymakers*, pp. 129–144; Roger Zetter and Camillo Boano, «Planned Evacuations and the Right to Shelter during Displacement,» in Kalin et al, *Incorporating the Guiding Principles into Domestic Law*, pp. 165–205.

Strategy recommends the closure of collective centres, in which IDPs had been living in overcrowded and sub-standard conditions for more than a decade, and the provision of IDPs with alternative housing solutions:

2.1. Effective resettlement of IDPs represents a precondition for the improvement of their living conditions and for their integration as well. The existence of approximately 1,600 collective centres, most of which are unsuitable for living, on the territory of Georgia not only poses a threat to the lives and welfare of their residents, but also hinders the social and economic advancement of the country. Resolving the issue of collective centres will assist in improving the living conditions of IDPs and will address the following significant issues:

- a) Collective centres of public purpose will regain their primary function of social institutions (hospitals, schools, etc.)
- b) Collective centres which have commercial value will be vacated for private investment. Monetary compensations, which will be given to IDPs in exchange for vacating the places they are currently occupying for residence, shall be relevant and adequate to market prices;
- c) The collective centres that are suitable for living and having a specific importance, will be transferred to IDPs, if they so desire, for self-privatization (price for the privatization should be determined by considering the social condition of each IDP).

2.2. IDPs shall be protected against arbitrary / illegitimate eviction.

2.3. State assistance will be provided based on strictly determined selection criteria, according to which IDPs residing in the private sector and those in the collective centres shall be offered specific assistance tailored to their needs. The programs listed below provide for the stable and long-term improvement of living conditions of IDPs:

- a) Use of specialized social institutions, within state programs, for IDPs with limited mental/physical abilities who are in need of special care (different types of shelters for groups of persons with specific health needs);
- b) Social assistance, within state programs, to healthy elderly and other vulnerable IDPs (those without a breadwinner, etc.) without any income (de-institutionalized care for those who cannot survive independently and will not be able to become self-reliant in the future, though do not need special care);

c) Financial assistance (ex. vouchers or other forms of assistance) for those IDPs who do not have a place to live or who leave collective centres, to support them to purchase a residence;

2.4. Transfer of residences into private ownership will be especially encouraged, though this option shall not take place automatically. Participation and contribution of IDPs in this process is a precondition for their purchasing of flats<sup>64</sup>.

<i>EXAMPLE of Council of Europe state practice</i>	<b>Allowing self-privatization by IDPs of their room in a collective centre</b>
<p>In <b>Georgia</b>, the 2009 revised Action Plan for implementing the State Strategy for IDPs elaborated the procedures for privatization of the collective centres where IDPs were living. IDPs accommodated in government owned collective centres and who meet minimum living standards have the option to self-privatize their living unit for a symbolic unit of 1 Georgian Lari (approximately US\$0.50); subsequently, the requirement of even this modest contribution was removed. For IDPs residing in collective centres that do not meet minimum living standards or who reside in private accommodation, the State Strategy and Action Plan envisage alternative durable housing options<sup>65</sup>.</p>	

<i>EXAMPLE of Council of Europe state practice</i>	<b>Social housing for IDPs financed through a loan from the Council of Europe Development Bank</b>
<p>In <b>Bosnia and Herzegovina</b>, the 1992–1995 war, which forced almost half of the country’s population to become IDPs or refugees, also destroyed or severely damaged forty percent of the housing stock in the country. Twenty years after the end of the war, there were still over 100,000 IDPs in the country who were unable or, due to protection concerns, unwilling to return to their homes. Of particular concern was the situation of IDPs who were still living in dilapidated and overcrowded collective centres, which were only</p>	

64 State Strategy for Internally Displaced Persons, chapter 5, available at: <http://mra.gov.ge/res/docs/2013112112105167523.pdf>.

65 Adapted from the example in *IASC Framework for Durable Solutions*, p. 37, citing State Action Plan for the Implementation of the National Strategy on Internally Displaced Persons, Government of Georgia Decree No. 403, adopted on 28 May 2009.

ever intended to provide temporary shelter. Closure of the collective centres counts among the measures to be taken, as specified in the government strategy for resolving displacement<sup>66</sup>. Moreover, among these residents of collective centres were a large number of extremely vulnerable people (the elderly, the chronically ill, persons with disabilities, long-term unemployed persons, and Roma) who required access to social services that were disrupted by the war and remained unavailable to them or insufficient.

In 2010, CEB and UNHCR teamed up to provide technical assistance to governmental authorities in Bosnia and Herzegovina, from all levels of government (state, entity, cantonal, and some seventy municipalities) throughout the country, to develop tailor-made housing solutions, social protection measures, and livelihoods support for these IDPs. Moreover, a guiding principle of the project was to support not only IDPs in the collective centres, but also vulnerable persons in the local community, thereby also supporting IDPs' local integration and social cohesion among IDPs and the host community. In 2013, the CEB approved a € 60 million loan to Bosnia and Herzegovina for this project which will provide new or refurbished housing units for at least 7,200 IDPs living in collective centres and other temporary accommodation throughout the country. Two types of housing units are provided: social housing apartments and assisted living in social protection institutions, especially geriatric centres and psychiatric care. BiH authorities have pledged to close all collective centres in the country by 2020. In February 2017, the reconstruction of a care home was launched in Derventa to house elderly residents thus far accommodated in collective centres<sup>67</sup>. In June 2017, the construction of 15 housing units, representing 28 beneficiaries, started in Maglaj. It is planned for completion in March 2018. In addition to shelter, some beneficiaries who are physically able will receive start-up kits, such as greenhouses and tools, while others will benefit from vocational training. Assistive technologies will be made available to the disabled<sup>68</sup>.

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66 Government of Bosnia and Herzegovina, *Revised Strategy for implementing Annex VII of the Dayton Peace Agreement*, 2010.

67 Council of Europe Development Bank (CEB), «RHP returnees receive keys to new homes in Bosnia and Herzegovina», at: <https://coebank.org/en/news-and-publications/news/rhp-returnees-receive-keys-new-homes-bosnia-and-herzegovina/>

68 Council of Europe Development Bank (CEB), «Financing Housing for Internally Displaced Persons in Bosnia and Herzegovina» at: <http://www.coebank.org/en/news-and-publications/projects-focus/financing-housing-internally-displaced-persons-bosnia-and-herzegovina/> Additional details provided by Mooney, who served as CEB-UNHCR Team Leader for this project, 2010–11.

<p><i>EXAMPLE of Council of Europe state practice</i></p>	<p><b>Village house program combining housing and livelihoods support</b></p>
<p>In <b>Serbia</b>, the local NGO Divac initiated a project, in collaboration with the authorities and UNHCR, which encourages IDP families to find in villages a house that is for sale, in good condition, and does not cost more than a certain fixed amount. The project finances and organizes the purchase of the home identified by the family. In addition, the beneficiary family receives equipment, start-up supplies and training to start a small business. Beneficiaries can choose among various livelihood options, e.g. a green house on their property to grow crops that can be sold in the local market<sup>69</sup>. This pilot project since has been scaled up, with «village houses» now part of the government of Serbia's component in the Regional Housing Strategy<sup>70</sup>.</p>	

## LIVELIHOODS, SOCIAL PROTECTION, and PENSIONS

Key  
message

*«Internally displaced persons [...] shall not be discriminated against as a result of their displacement in [...] the right to seek freely opportunities for employment and to participate in economic activities».*  
*«When necessary, internally displaced persons shall have access to [...] social services».*

*Guiding Principles on Internal Displacement,  
Principles 22(1)(d) and 19(1)*

**D**isplacement typically results in IDPs losing their usual livelihood as well as the assets (e.g. livestock, access to land, machinery) and access to markets that support their economic activity. Compounding this situation, displacement also often results in the loss of documents, including not only identification documentation but also educational and training certificates; lack of such documents frustrates IDPs' ability to engage in formal employment once displaced, to access their pension if they are no longer working, and to access any social protection assistance for which they are eligible. In addition, IDPs often face discrimination that hinders their access to employment opportunities and even to access to social services. Under these circumstances,

<sup>69</sup> *IASC Framework for Durable Solutions*, p. 34, citing United Nations, Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kalin, Follow-up visit to 2005 Mission to Serbia and Montenegro, UN Doc. A/HRC/13/21/Add.1/para. 10.

<sup>70</sup> See: [http://www.regionalthousingprogramme.org/uploads/news/RHP\\_FS\\_SRB\\_June\\_ENG\\_Final\\_1467283911.pdf](http://www.regionalthousingprogramme.org/uploads/news/RHP_FS_SRB_June_ENG_Final_1467283911.pdf)



IDPs are at heightened risk of long-term impoverishment, dependency on assistance, and exploitation.

— Indeed, established international guidelines on poverty reduction recognize that «[s]ocial categories known for severe poverty in several dimensions» include *inter alia*, IDPs and refugees<sup>71</sup>. And yet, even in countries with significant displaced populations, most national development plans and poverty reduction strategies fail to take into account the needs and – just as importantly – also the potential of displaced populations<sup>72</sup>. This oversight has tremendous repercussions not only for IDPs themselves but also for the economic development of the country as a whole.

— Regarding employment and social protection, as minimum essential elements of regulation in a situation of internal displacement, states are expected to:

- ◆ Recognize IDPs right to work and right to access social protection programmes;
- ◆ Take specific measures to protect IDPs against discrimination in the labour market and to give IDPs access to social protection programmes;
- ◆ Direct government agencies responsible for employment and social security specifically to evaluate and take action in response to the particular problems faced by IDPs (for example, through provisional work programmes, access to microcredit and other assistance, skills transfer and vocational training, and access to labour market and social protection programmes);
- ◆ Provide for measures (such as microcredit systems, vocational training, and the distribution of farming implements, seeds or animals) that help former IDPs to regain their livelihoods or engage in new economic activities in their place of displacement<sup>73</sup>.

The Council of Europe Committee of Ministers has emphasized that «[c]onditions for proper and sustainable integration of internally dis-

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71 Organization for Economic Cooperation and Development (OECD), *The DAC Guidelines on Poverty Reduction* (2001), [DAC is the Development Assistance Committee of the OECD].

72 UNHCR, *Poverty Reduction Strategy Papers: A Displacement Perspective* (2004).

73 *Manual for Legislators and Policymakers*, p. 267; see also, pp. 189–203.

placed persons following their displacement should be ensured»<sup>74</sup>. The Explanatory Memorandum to this recommendation elaborates that «to enable self-reliance of IDPs, competent authorities should provide [...] as far as possible employment opportunities»<sup>75</sup>. More specifically, PACE has recommended the Committee of Ministers to call upon member states affected by internal displacement «to work out, together with IDPs, durable solutions and in particular to:

[...] make income-generating activities available to IDPs to facilitate their social and economic reintegration and, in particular, to ensure full and non-discriminatory access to jobs offered by private or public employers; to develop social welfare systems that can benefit IDPs in need of assistance, in particular social housing schemes; where relevant to transfer social security and pension rights<sup>76</sup>.

— Guidance on as well as actual examples of specific ways to support livelihood opportunities for IDPs, to ensure that IDPs who no longer are working can access their pensions, and that IDPs with particular vulnerabilities are able to access social protection services, is a huge topic that goes far beyond the space constraints of this Guide. Measures taken by Council of Europe member states on these three issues, and which showcase a range of different issues (e.g. agricultural livelihoods as well as civil service employment) include:

<i>EXAMPLE of Council of Europe state practice</i>	<b>Civil service employees retaining their posts after they become IDPs</b>
<p>In <b>Azerbaijan</b>, many IDPs who were public sector employees at the time of their displacement have retained their posts in the civil service even after becoming IDPs as the public services in which they were employed still function «in exile», meaning in other parts of the country. Those who were dismissed for reasons beyond their control continue to receive a monthly salary<sup>77</sup>.</p>	

74 Council of Europe, CoM Rec, para. 12.

75 Council of Europe, Explanatory Memo.

76 PACE Recommendation 1877 (2009), para. 15.3.8.

77 IDMC, *Azerbaijan: After more than 20 years, IDPs still urgently need policies to support full integration*, 26 March 2014).

*EXAMPLE of  
Council of Europe  
state practice*

### **Training IDPs and refugees to be certified providers of social protection services to vulnerable persons**

**Serbia** continues to host large numbers of IDPs and refugees from the various conflicts of the 1990s in the former Yugoslavia. These protracted IDPs and refugees (including former refugees who have obtained Serbian citizenship) remain one of the most socially vulnerable groups in Serbia. To improve their situation, the Ministry of Labour, Employment and Social Policy, with support from the European Union, launched in 2010 a two-year €3.5 million project to train IDPs and refugees to provide social protection services, in particular to elderly persons, persons with disabilities, and in family assistance centres. While directly targeting IDPs and refugees and providing them with livelihood skills and employment opportunities, the project had a much wider purpose of aiming to expand and improve social protection services for all persons (displaced or not) in communities as a whole.

For example, in the municipalities of Mladenovac and Kursumlija, IDPs and refugees received training in gerontology nursing, after which they were employed to provide specialized care to elderly people and persons with disabilities in 154 households. In addition to providing IDPs and refugees with immediate employment, the fact that training was accredited and certified means that these IDPs and refugees are now professionally licensed as gerontology nurses; such in-demand skills should also enhance their employment opportunities in the long-term.

All levels of government were engaged in the implementation, with local self-governments being the key stakeholders. A total of €2.6 million were allocated in the form of grants or non-repayable financial assistance to 25 municipalities, where new social services were established. A total of 218 IDPs completed the training qualifying them to work at family assistance centres, day care centres for persons with disabilities, or to take care of the elderly. More than 100 IDPs and refugees found work within the project, and all of those who successfully completed the training gained the certification to work anywhere in the country in providing these services<sup>78</sup>.

<sup>78</sup> European Union (EU), *Growing Together: Most Successful EU Funded Projects in Serbia* (EU Info Centre, Belgrade, January 2015), pp. 38–29.

EXAMPLE of Council of Europe state practice	Pension payments by post or bank to IDPs and returnees in territories outside of the administrative jurisdiction of the pension fund
<p>In <b>Bosnia-Herzegovina (BiH)</b>, IDPs and returnees (whether returning refugees or returning IDPs), have faced a range of difficulties in accessing their pensions. This is particularly so for IDPs who were displaced from one post-war Entity of the country to another.</p> <p>During the conflict, the pension fund of the Republic of BiH was split into three separate funds (essentially, one in each of the territories controlled by the three different main parties to the conflict<sup>79</sup>), with each fund responsible for the pensions of persons living in its administrative area. This arrangement of separate pensions schemes continued after the conflict and continues to this day<sup>80</sup>.</p> <p>It was very difficult for IDPs or returnees to access their pension when the pension fund did not have administrative jurisdiction over the area where the IDP or returnee lived. In such cases, the IDP or returnee was obliged to travel to this other area to collect her or his pension in person. In many cases, it was not safe for IDPs and returnees to do so. Even when safety was not an issue, the need to make this journey every month constituted an excessive burden for the pensioner, not least as many had medical and mobility issues, in addition to having limited economic means. Moreover, in some cases, the small pension amount did not cover, or at least did not warrant, the expense of travel. Finally, in 2001, it became possible for pensioners to receive their monthly transfer directly by post or through a bank. This practical measure is noteworthy as it did help many IDPs and returnees access their pensions. However, this measure reportedly was inconsistently applied and some of the government pensions funds frustrated its implementation by imposing additional and burdensome administrative requirements<sup>81</sup>.</p>	

79 These were: the Public Fund of Pension and Disability Insurance of the *Republika Srpska* (RS Fund); the Social Fund of Pension and Disability Insurance of Bosnia and Herzegovina, administered (Sarajevo Fund); the Bureau of Pension and Disability Insurance of Mostar (Mostar Fund). While the RS Fund was responsible for pensioners registered in the RS, the situation in the Federation of Bosnia and Herzegovina (FBiH) was more complex as a result of different ethnic groups controlling territory: Cantons 2,9 and 10 fell under the responsibility of the Mostar Fund; Cantons 1, 3, 4, 5, and 9 were the responsibility of the Sarajevo Fund; and responsibility for Cantons 6 and 7 was split between the two Funds municipality by municipality, depending on the majority ethnic group in municipality. Anne Chabard, «The Right to Social Security,» in Kalin et. al. (eds.), *Incorporating the Guiding Principles into Domestic Law*, pp. 485–486.

80 Following a decision by the international High Representative who, per the Dayton Peace Agreement, held administrative powers in post-war BiH, the Sarajevo and Mostar Funds were merged officially in 2000.

81 Anne Chabard, «The Right to Social Security,» pp. 485–486.

Moreover, many of the other challenges that IDPs and returnees face in accessing their pensions remain. Indeed, as the government pointed out in its 2010 revised strategy for implementation of the DPA's Annex VII concerning refugees and displaced persons, «[r]egarding social protection of returnees and their access to pension and disability insurance, unfortunately the results are not satisfactory». The core problem is that, notwithstanding repeated recommendations by international organizations, there is no state level agreement to harmonize the legislation and social welfare systems of the two Entities. The 2010 government strategy for addressing displacement points out that as a result, displaced persons' access to pensions, «is limited» and that «[n]ot rarely, these limitations are rooted in discrimination, which is contrary to the principles set out in Annex VII [of the Dayton Peace Agreement], the BiH Constitution, and international law». Indeed, the state strategy cites a ECtHR judgment specifically on this issue, which notes that: «the absence of harmonised legislation between the two Entities and the lack of state-level legislation regulating pension and other social benefits causes problems for displaced pensioners and returnees»<sup>82</sup>.

EXAMPLE of Council of Europe state practice	Integrating displaced populations into national development plans and poverty reduction strategies
<p>In <b>Armenia</b>, the government adopted in 2003 a Poverty Reduction Strategy Paper which in its analysis of poverty in the country includes IDPs and refugees among the poorest groups, noting:</p> <p>Households where the head has refugee or IDP status are more likely to be poor (poverty incidence of 63 % for IDP households). Poor temporary housing and living conditions contribute to the vulnerability of this group. A large part of this population has no permanent employment (around 70 % of the IDP population) and is dependent on state transfers and humanitarian aid.</p> <p>IDPs and refugees accordingly are specifically targeted in all of the main sectors for poverty reduction interventions, namely: livelihoods, education health, housing and social protection<sup>83</sup>.</p>	

82 Government of Bosnia and Herzegovina, Revised strategy for implementation of Annex VII of the Dayton Peace Agreement, 2010, citing *The Judgment of the European Court of Human Rights in the case D.K. against Bosnia and Herzegovina*, 20 November 2007.

83 Republic of Armenia, *Poverty Reduction Strategy Paper* (2003), p. 8.

Similarly, in **Azerbaijan**, which has one of the highest per capita concentrations of IDPs worldwide, the State Program on Poverty Reduction and Sustainable Development, 2008–2015 included among its nine strategic goals: «continuing systematic implementation of activities aimed at improving the living conditions of refugees and IDPs». One of the specified targets for achieving this goal was to «increase the level of employment among refugees and IDPs to the average national employment level». The other eight goals for poverty reduction and sustainable development were also relevant to IDPs, in particular those aimed at: «increasing income-generating opportunities and achieving substantial reduction in the poorest sections of the population»; «reducing social risks for old age groups, low-income families, and vulnerable groups by developing an effective social protection system»; and «improving the quality of and ensuring equal access to affordable basic health and education services».

The State Program recognizes that the «most socially vulnerable population groups include those whose living conditions and welfare standards have deteriorated abruptly, as in the case of IDPs and refugees». Indeed, the State Program also points out that «the IDP population is the dominant group among the country's unemployed». Further, «[m]any are only working in the informal sector, and are not entitled to social security benefits». To address this situation, the State Program points out:

The main challenge is to ensure that the IDP and refugee population does not suffer from deprivation to a greater or lesser extent than the rest of the population, and to ensure that they have equal rights and opportunities to participate in the social and economic life of the country [...]

That said, not all IDPs are equally vulnerable. Therefore, the State Program emphasizes:

Social assistance provided by the government and other organizations is important in protecting IDP families from poverty. However, it is very important that this assistance is targeted properly, and reaches the truly vulnerable. This requires regular, improved monitoring of the living standards and conditions of IDP households<sup>84</sup>.

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84 Republic of Azerbaijan, *State Program on Poverty Reduction and Sustainable Development, 2008–2015*, approved by Decree #3043 of the President of the Republic of Azerbaijan dated September 15, 2008.

EXAMPLE of Council of Europe state practice	Ensuring that IDPs in need can access social protection and livelihood assistance programs
<p>In <b>Turkey</b>, the southeastern governorate of Van adopted in 2006 an action plan for addressing displacement. The action plan sets out to support local integration of impoverished IDPs through the «expansion of existing initiatives» of general social support programs, from which IDPs can benefit. The action plan notes:</p> <p>IDPs have made extensive use of Governorate of Van initiatives realized with the aim of increasing household welfare, including a Food Bank, Green Network, micro-credit program and Child Research Rehabilitation and Training Centre (CAREM). Through broad use of information technologies, the Green Network allows poor populations to benefit from various social assistance services without having to wait in long queues. Beyond providing merely for basic nutrition, the Food Bank comprises units that also provide clothing, cleaning supplies, stationery and other basic necessities in an effort to minimize access deprivation of IDPs and other poor populations. Through this practice, rather than depending on donations of food and clothing selected for them by others, households below the poverty line are able to exercise their own priorities and preferences in satisfying their needs.</p> <p>While these services are directed towards poor households in general, other services address specific population that, due to sex and age, occupy relatively disadvantaged positions within the household. For instance, women entrepreneurship is supported through a micro-credit program initiated with the contribution of both government agencies and NGOs active in Van. Another disadvantaged group, children working on the street, is provided with services by CAREM, a facility established to provide rehabilitation, socialization, training and health care that receives support within the framework of a joint project administered by the Ministry of Labour and Social Security and the International Labour Organization (ILO) on the Elimination of Worst Forms of Child Labour in Turkey. Activities conducted jointly with the ILO have commenced parallel to the very recent stat of cooperation between the Governorate of Van and ILO, which represents a partnership between the public sector in</p>	

Turkey and the international community that will contribute to the efficiency of service provision<sup>85</sup>.

## EDUCATION

### Key message

*IDPs, like other persons have the right to education. Yet, displacement typically disrupts education, often for years. Ensuring IDPs' right to education is critically important for the development and future prospects not only of IDP children and youth but also of the entire country.*

In addition to being their right, education provides IDPs with a degree of stability, security and normalcy and can be a source of psychosocial support. It also can help to reduce IDP children's exposure to threats including child labour, sexual exploitation, and military recruitment. IDPs' equal access to education is a strong indicator of their integration into the local community, both while they are displaced and once they return home or resettle elsewhere in the country.

— The *Guiding Principles on Internal Displacement* specify that to give effect to the right to education in situations of internal displacement, the authorities are to ensure that IDPs, in particular IDP children, receive education which is free and compulsory at the primary level. Principle 23 further stipulates: education should respect IDPs' cultural identity, language and religion; special efforts are to be made to ensure the full and equal participation of women and girls in educational programmes; and education and training facilities shall be made available to IDPs, in particular adolescents, whether or not living in camps, as soon as conditions permit<sup>86</sup>. The right to education also is to be safeguarded in the context of durable solutions to displacement in accordance with authorities' obligation to ensure IDPs' equal access to public services upon their safe and voluntary return or resettlement in another part of the country<sup>87</sup>.

However, IDPs frequently face numerous obstacles in accessing their right to education in practice<sup>88</sup>. Schools are often severely

85 Van Provincial Action Plan for Responding to IDP Needs (2006).

86 Guiding Principles on Internal Displacement, Principle 23.

87 Guiding Principles on Internal Displacement, Principle 29(1).

88 See Erin Mooney and Colleen French, *Barriers and Bridges: Access to Education for Internally Displaced Children* (2005), available at: [www.brookings.edu/papers/2005/0111humanrights\\_mooney.aspx](http://www.brookings.edu/papers/2005/0111humanrights_mooney.aspx); Erin Mooney and Colleen French, *Education for IDPs: Poor Marks*, *Forced Migration Review*, Issue 22 (2005); Erin Mooney and Jessica Wyndham, 'The Right to Education in Situations of Internal Displacement', *Incorporating the Guiding Principles into Domestic Law: Issues and Challenges*, edited by Walter Kalin et. al (Brookings-Bern Project on Internal Displacement and American Society of Internal Law, 2010), pp. 247–290.



damaged or even destroyed as a result of the conflict or disaster that caused displacement. Where school facilities do exist, IDPs' loss or lack of official identification documentation as well as of their school records can frustrate their registration in educational institutions. Residency requirements may not take into account the obvious complications that displacement presents in terms of no longer living in one's usual place of residence, because of displacement. School fees (which per international human rights standards, should not be applied at the primary level) and related costs, e.g. for required uniforms, school supplies, etc., may be prohibitive for IDPs, especially given that internal displacement typically has significant repercussions for IDPs' livelihoods. Discrimination may impede IDPs from attending school or, within the classroom, may impede their learning and even ability to attend school. Schools in host areas that have received a large influx of IDPs may be overcrowded, which in turn can lead to refusal to allow IDPs to attend.

— The Council of Europe Committee of Ministers has emphasized: «Conditions for proper and sustainable integration of internally displaced persons following their displacement shall be ensured»<sup>89</sup>. On this point, the Explanatory Memorandum to the Recommendation elaborates *inter alia* that «to enable self-reliance of IDPs, competent authorities should provide [...] adequate education facilities»<sup>90</sup>. Moreover, the Parliamentary Assembly of the Council of Europe (PACE) has adopted a recommendation devoted to the issue of education of refugees and IDPs<sup>91</sup>, which notes that while education is a right for everyone, «[c]areful attention should, however, be paid to the very differing conditions of refugees and IDPs, in different European countries», further noting that «[e]ducation under post-conflict conditions in such areas should be pragmatic and is very different from that in safe and prosperous societies». The PACE recommendation includes a number of recommendations, which should be referred to in full.

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89 Council of Europe CoM Rec on IDPs.

90 Council of Europe CoM, Explanatory Memo.

91 PACE, Recommendation 1652 (2004), Education of refugees and internally displaced persons. Text adopted by the Standing Committee acting on behalf of the Assembly on 2 March 2004.

<i>EXAMPLE of Council of Europe state practice</i>	<b>Recognition of displaced students' educational records and certificates and of displaced educators' professional qualifications</b>
<p>In <b>Bosnia and Herzegovina</b>, several years after the conflict, the Ministers of Education at all levels in the country (central, Entities, District of Brcko, and cantons in the Federation) agreed to a mutual recognition system of recognizing throughout the country students' schools records and certificates as well as the professional qualifications of teachers and teacher trainers<sup>92</sup>.</p>	

<i>EXAMPLE of Council of Europe state practice</i>	<b>Subsidizing educational fees and materials for IDPs</b>
<p>In <b>Azerbaijan</b>, IDPs studying in State-run secondary and higher education institutions are exempt from paying tuition fees. Further, the law on displaced persons stipulates that IDPs who are attending secondary institutions are to be provided with textbooks and other educational materials free of charge<sup>93</sup>. In <b>Georgia</b>, the laws on the State budget make provision for free education for IDPs<sup>94</sup>. Moreover, the IDP Law stipulates that IDPs who are attending secondary institutions are to be provided with textbooks and other educational materials free of charge<sup>95</sup>.</p>	

<i>EXAMPLE of Council of Europe state practice</i>	<b>Review of curricula and textbooks to promote peace-building and facilitate IDP return</b>
<p>In <b>Bosnia and Herzegovina</b>, after the bitter ethnic conflict, a significant factor deterring IDPs and refugees from returning to their home area was the use, in these areas, of nationalist and ethnically biased educational curriculum and textbooks. Both the curriculum and the textbooks from which the curriculum is taught required careful review and assessment for ethnic, religious, or other biases. An Agreement on the Review of Textbooks was adopted by all the levels of government, which led to the revision of</p>	

92 Mooney and Wyndham, citing Bosnia and Herzegovina, Agreement of the Conference of the Ministers of Education of Bosnia and Herzegovina, Sarajevo (20 May 2000), Article 7.

93 Law of the Azerbaijan Republic on Social Protection of Forcibly Displaced Persons and Persons Equated to Them, Article 11.

94 See, for example, Law of Georgia on 1999 State Budget of Georgia, 19 March 1999, Article 10; Law of Georgia on 2000 State Budget of Georgia (10 March 2000), Article 14.

95 Decrees of the President of Georgia, No. 685 (24 October 1996), No. 614 (31 October 1998), No. 64 (4 June 1999).

all textbooks in use in the country and the removal of any material that was considered objectionable, offensive or contrary to the principles set out in the Dayton Peace Agreement that ended the conflict<sup>96</sup>.

<i>EXAMPLE of Council of Europe state practice</i>	<b>Supplementary teacher training for displaced teachers</b>
<p>In <b>Chechnya, in the Russian Federation</b>, the Chechen Ministry of Education established a Chechen Institute for Teaching Retraining that ran supplementary training programs for primary and secondary school teachers, including in IDP camps in Ingushetia<sup>97</sup>.</p>	

<i>EXAMPLE of Council of Europe state practice</i>	<b>Relaxed administrative requirements in schools in areas of return</b>
<p>In <b>Bosnia and Herzegovina</b>, in order to encourage IDP and refugee returns, the authorities allowed the opening of schools in areas of IDP and refugee return despite there not being the minimum number of students in the area as prescribed by the law<sup>98</sup>.</p>	

<i>EXAMPLE of Council of Europe state practice</i>	<b>Prioritized hiring of ethnic minority teachers in «minority return» areas</b>
<p>In <b>Bosnia and Herzegovina</b>, the Ministry of Education agreed to gradually hire teachers from the officially recognized «constituent» minority groups to teach all subjects, in particular in school located in areas of significant actual or anticipated IDP and refugee «minority return». This measure was taken specifically to encourage voluntary return of displaced persons from minority groups<sup>99</sup>.</p>	

96 Bosnia and Herzegovina, Agreement regarding Textbook Review and Removal of Offensive Material, 18 May 1998; Agreement of the Review of Textbooks, 14 December 2001, cited in Mooney and Wyndham, p. 272.

97 UN Office for the Coordination of Humanitarian Affairs, Consolidated Inter-Agency Appeal 2004: Chechnya and Neighbouring Republics (November 2003) cited in *Manual for Legislators and Policymakers*, p. 238.

98 Implementation Plan for the Interim Agreement on Accommodation of Specific Needs and Rights of Returnee Children, Sarajevo, 5 March 2002, Article II(2), cited in *Legislators' Manual*, p. 239.

99 Agreement, meeting of the Conference of the Minister of Education of Bosnia and Herzegovina, 19 May 2000, para. 6, cited in Mooney and Wyndham, pp. 272–273.

EXAMPLE of Council of Europe state practice	<b>Adult education opportunities for IDPs</b>
<p>In <b>Azerbaijan</b>, the State Program on Poverty Reduction and Sustainable Development (2008–2015), which included as a target increasing the employment level of IDPs to that of the general population, recognized that specific measures, including in the realm of education, would need to be taken to reach this target. In line with the State Program on Development of Vocational Education (2007–2012), the government committed to «arranging study and transition-to-work services for adult IDPs and refugees», educating unemployed adults [which would include IDPs and refugees) »to upgrade their skills, preparing them for any social and psychological adjustment, and preparing them for employment in new sectors», as well as «updating the knowledge and skills of adult workers, conducting refresher and in-service training courses to increase their intellectual capacity»<sup>100</sup>.</p>	

## VOTING RIGHTS

### Key message

*«Member States should take appropriate legal and practical measures to enable internally displaced persons to effectively exercise their right to vote in national, regional, or local elections and to ensure that this right is not infringed by obstacles of a practical nature.»*

*Council of Europe, Committee of Ministers,  
Recommendation on Internal Displacement*

**E**nsuring that IDPs can exercise their right to participate in political activities, including the right to vote, is a key component of the benchmark of national responsibility regarding ensuring that IDPs can have a say in the decisions impacting their lives<sup>101</sup>. Among the minimum essential elements of state regulation in a situation of internal displacement are to:

- ◆ Provide mechanisms for IDPs being registered as voters even during displacement, such as through facilitated procedures to maintain existing registration, to transfer registration, and/or to waive requirements that would prevent IDPs from registering at the site of displacement;

100 State Program on Poverty Reduction and Sustainable Development Republic of Azerbaijan 2008–2015, approved by Decree #3043 of the President of the Republic of Azerbaijan dated September 15, 2008, p. 16.

101 *Framework for National Responsibility*, pp. 20–21.

- ◆ Allow IDPs to cast their vote at the location of displacement, for either the constituency of origin (absentee vote) or the constituency of displacement<sup>102</sup>.

— Safeguarding IDPs’ electoral rights is a vast topic, requiring an array of legal and practical measures, for which there are numerous, and often very detailed, examples of state practice. For reasons of space constraints, it is not possible to adequately cover this topic here, but reference should be made to other specific guidance as well as analyses of state practice on this issue<sup>103</sup>.

EXAMPLE of <i>Council of Europe state practice</i>	<b>Legislative reform to enable IDPs to exercise their right to vote</b>
<p>In <b>Georgia</b>, national electoral legislation provided that IDPs could only vote in the proportional component of parliamentary elections and not in the election of the parliamentary representative for the district where they were residing while displaced. The rationale given was that IDPs already had representation via the parliamentary deputies of their places of origin, whose mandate was extended indefinitely, until such time as the central government would re-establish control of the territories of Abkhazia and South Ossetia and IDPs could return home. However, after several years of displacement, many IDPs felt their views no longer were well represented by these deputies «in exile» who had been elected years earlier.</p> <p>Regarding local elections, national electoral legislation ties voter eligibility to an individual’s registered place of residence. For IDPs to vote in local elections in the area where they live while displaced, they therefore would have to register that locality as their new official place of residence. However, national legislation regulating the status of IDPs stipulated that if an IDP registered her or his residence in a place other than her or his place of origin, s/he would lose IDP status and all the specific entitlements and benefits this entailed. In addition, rumours were rife among IDPs that if they exercised</p>	

102 *Manual for Legislators and Policymakers*, p. 267.

103 For further guidance see, for example, Erin Mooney and Jeremy Grace, «Political Participation Rights in Particular the Right to Vote,» in Kalin et al. (eds.), *Incorporating the Guiding Principles into Domestic Law*, pp. 507–50; *Manual for Law and Policymakers*, pp. 205–22; Jeremy Grace and Jeff Fischer, «Enfranchising Conflict-Forced Migrants: Issues, Standards and Best Practices,» Participatory Elections Project, Discussion Paper No. 2 (IOM, 2003), available at: [http://www.geneseo.edu/~iompress/Archive/Outputs/Standards\\_Final.pdf](http://www.geneseo.edu/~iompress/Archive/Outputs/Standards_Final.pdf); Erin Mooney and Balkees Jarrah, *Internally Displaced Persons’ Voting Rights in the OSCE Region* (Brookings Institution – SAIS Project on Internal Displacement, 2004), available at: <https://www.brookings.edu/research/internally-displaced-persons-voting-rights-in-the-osce-region/>

their right to vote in the localities where they were living while displaced, they would forfeit their right to return; politicians and government officials did little to dispel such rumours.

Beginning in 1998, IDPs legally challenged, through the Constitutional Court of Georgia, the national legislation in force which impeded their right to political participation in particular their right to vote in local elections and in parliamentary majoritarian elections. Advocacy by many international organizations, including the Council of Europe Commissioner for Human Rights, reinforced these efforts which eventually bore fruits. In 2001, Parliament adopted the Unified Election Code of Georgia which, among other things, removed the restrictions on IDPs voting in local elections in the places where they resided while displaced, without any repercussions in terms of loss of IDP status or benefits. Further amendments to the Electoral Code in 2003 allowed for IDPs to vote in not only the proportional component but also the majoritarian component of parliamentary elections, and without permanently changing their official place of residence or forfeiting their IDP status. Moreover, to enable IDPs to realize their right to vote in these elections, the revised Unified Election Code introduced several provisions addressing the various specific obstacles (e.g. lack of documentation, residency requirements, etc.) that IDPs faced in exercising their right to vote. Further, by a decision of Parliament in April 2004, the mandate of parliamentary deputies «in exile» from areas under occupation as a result of the conflict was ended, and their seats left vacant, until parliamentary elections could be held again in these territories<sup>104</sup>.

EXAMPLE of <i>Council of Europe state practice</i>	<b>Ensuring IDPs' right to choose whether to vote in their electoral constituency of origin or where they reside while displaced</b>
<p>In <b>Bosnia and Herzegovina</b>, the Dayton Peace Agreement of 1995 that ended the war which displaced half of the country's population, anticipated and addressed the need for special provisions for displaced voters, providing:</p> <p style="padding-left: 40px;">«a citizen who no longer lives in the municipality in which he or she resided in 1991 [the date of the last pre-war census,</p>	

104 Mooney and Jarrah, *Voting Rights of IDPs in the OSCE Region*, pp. 32–41; and Mooney, «From Solidarity to Solutions,» pp. 211–13.

which served as the basis for voter registration] shall, as a general rule, be expected to vote, in person or by absentee ballot, in that municipality... Such a citizen may, however, apply to the Commission to cast his or her ballot elsewhere»<sup>105</sup>.

The election rules and regulations that were subsequently elaborated echoed this provision, specifying: «Every effort will be made [...] to facilitate the return of citizens to the municipality where they were registered in 1991 to vote in person. Those who cannot do so will be provided, on application, with an absentee ballot»<sup>106</sup>. At the same time, it needed to be taken into account that because a central aim of the conflict had been «ethnic cleansing» through the permanent displacement of populations from specific territories, many displaced persons faced not only hostility in their home areas but also intense pressure to return from political leaders in the places where they were living while displaced. In an effort to prevent attempts to influence the election outcome by pressuring IDPs as to where to cast their ballot, the Provisional Election Commission also articulated the right of IDPs to vote in their current location, provided they met a minimum residency requirement. Specifically:

Displaced persons who were citizens of Bosnia and Herzegovina on 6 April 1992, but who have changed their place of residence [...] either forcibly as a result of war or voluntarily, may apply during the voter registration period to vote in person in the municipality in which they now live and intend to continue to live, only if they present documentary proof of continuous residence in the current municipality since 31 July 1996 or before<sup>107</sup>.

Thus, in the local elections, IDPs were able to vote either in their municipality of origin (casting their vote either in person or by absentee ballot) or, subject to proof of recent residency, in the municipality where they were currently living, while displaced. Subsequent elections have continued to allow IDP voters to make this choice, although the residency requirement subsequently was reduced from fourteen to six months<sup>108</sup>.

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105 *General Framework for Peace in Bosnia and Herzegovina* signed at Dayton, Ohio, 14 Dec. 1995, Annex 3, Article IV.

106 OSCE/Office for Democratic Institutions and Human Rights, *Rules and Regulations: As Amended and Recompiled from the 1996 Rules*, Provisional Election Commission Dc. (14 Oct. 1997), cited in Mooney and Grace, pp. 529.

107 *Ibid.*, Article 10.

108 Mooney and Grace, pp. 529–30.

<p><i>EXAMPLE of Council of Europe state practice</i></p>	<p><b>Explicit legislative guarantees to safeguard IDPs against restriction on their electoral rights</b></p>
<p>In <b>Bosnia and Herzegovina</b>, the 2002 Rules and Regulations on general elections stipulated:</p> <p style="padding-left: 40px;">No citizen of Bosnia and Herzegovina shall forfeit any right or entitlement because he or she has registered as a voter, or because his or her registration to vote for a municipality is not the one in which he or she currently resides... No person shall be required to present any document issued to him or her by a competent municipal body relative to the registration or voting for any other purpose except as necessary for the purpose of voter registration, confirmation of registration or voting<sup>109</sup>.</p>	

<p><i>EXAMPLE of Council of Europe state practice</i></p>	<p><b>Mandating election materials to be provided in all relevant languages</b></p>
<p>In <b>Kosovo</b>, the law governing the 2000 and 2001 municipal elections required all election-related information to be printed in four languages: Serbian, Albanian, Romani, and Turkish. The Manual for Legislators and Policymakers points out: «Implementation of this requirement required a great deal of planning and was complicated in practice, but failure to take this approach would have risked excluding vulnerable minority groups from the poll», including surely IDPs<sup>110</sup>.</p>	



Additional examples of state practice related to safeguarding IDPs' right to vote appear elsewhere in this publication, in particular in the chapter on: «Civil Documentation» (Kosovo: Combining Civil Registration and Voter Identification).

109 2002 Rules and Regulations on general elections in Bosnia and Herzegovina, Article 3.7, cited in *Manual for Legislators and Policymakers*, p. 216.

110 *Manual for Legislators and Policymakers*, p. 218.



## PROPERTY RESTITUTION or COMPENSATION

### Key message

«Internally displaced persons are entitled to the enjoyment of their property and possessions in accordance with human rights law. In particular, internally displaced persons have the right to repossess the property left behind following their displacement. If internally displaced persons are deprived of their property, such deprivation should give rise to adequate compensation».

*Council of Europe, Committee of Ministers,  
Recommendation on Internally Displaced Persons*

In addition to recognizing IDPs' right to repossess or be compensated for their homes, land, and property abandoned as a result of their displacement, minimum essential elements of state regulation regarding this right are for states to:

- ◆ Take basic measures to secure against destruction, unlawful use, occupation and appropriation, of the homes lands and property left behind by IDPs;
- ◆ Develop facilitated procedures to restore or compensate IDPs' rights to housing, land and property; where this is not possible, provide support to informal dispute resolution bodies to take into account human rights law in negotiating solutions to local property claims.

— Again, note should be taken of the fact that this is a vast topic, requiring an array of legal and practical measures, for which there are numerous, and often very detailed, examples of practice. Beyond the few examples provided below, reference should be made to other specific guidance on this issue<sup>111</sup>.

EXAMPLE of Council of Europe state practice	Admissibility of restitution claims by lawful possessors as well as owners
In <b>Bosnia and Herzegovina (BiH)</b> , before the 1992–95 war, many owners of private property failed to register their rights in the cadastral records in order	

111 See, for example, Handbook on Housing and Property Restitution for Refugees and Displaced Persons: Implementing the 'Pinheiro Principles' (FAO, IDMC, OCHA, OHCHR, UN-Habitat, and UNHCR, 2007); *Manual for Legislators and Policymakers*, pp. 169–188; Rhodri C. Williams, «Property» in Kalin et. al (eds), *Incorporating the Guiding Principles on Internal Displacement into Domestic Law*, pp. 363–432.

to avoid tax payments. The post-war restitution laws in BiH recognized that widespread practice by providing that private property could be claimed not only by registered owners but also by lawful possessors. Specifically, it provides:

Owner of the real property declared abandoned shall have the right to file a claim for the return of the real property at any time. Exceptionally, claims or repossession of real property may also be made by persons who were in unconditional possession of the real property at the time it was declared abandoned<sup>112</sup>.

<p><i>EXAMPLE of Council of Europe state practice</i></p>	<p><b>Authorization to accept alternative evidence establishing IDPs' compensation claims</b></p>
<p><b>Turkey's</b> 2004 Law No. 5233 on Compensation of Losses Resulting from Terrorist Acts and Measures Taken against Terrorism provides for compensation to IDPs <i>inter alia</i> for the denial of access to their properties while displaced. In implementing this law, the government issued a regulation in 2005 authorizing the commissions implementing the law to seek and accept any type of evidence related to claims that could be relevant, stipulating:</p> <p>The applicant shall present any information and documents, which explain how the incident happened, and which can be considered in determining and measuring the loss to the Commission together with his/her petition. Also, the Commission may request from judicial, administrative, and military authorities any information and document which may be considered in determining and measuring the loss, if it deems necessary<sup>113</sup>.</p>	

112 *Manual for Legislators and Policymakers*, p. 184, citing Law on the Cessation of the Application of the Law on Abandoned Apartments, *Official Gazette of the Federation of Bosnia and Herzegovina*, No. 11/98, Article 4.

113 *Manual for Legislators and Policymakers*, p. 164, citing «Regulation Amending the Regulation on Compensation of Losses Resulting from Terrorist Acts and Measures Taken against Terrorism,» Decision No. 2005/9329 (2005), Article 1.

<p><i>EXAMPLE of Council of Europe state practice</i></p>	<p><b>Expediting procedures in reparations and restitution processes</b></p>
<p>In <b>Kosovo</b>, which was administered by the UN following the end to the conflict in 1999, restitution of housing and residential property was facilitated by the determination that rules and practices set up during the prior decade to disown Kosovo Albanians and prevent them from buying homes of Kosovo Serbs were discriminatory. As a result, the regulation on property restitution adopted by the UN Mission in Kosovo (UNMIK) included conclusive presumptions that homes lost during the period as a result of discrimination should be subject to restitution and that informal transfers of property concluded in violation of the prior rules should be treated as lawful. The same regulation also allows for relaxed evidentiary standards, allowing the commission's rulings on property claims to «be guided but... not bound by the rules of evidence applied in local courts in Kosovo» and to «consider any reliable evidence which it considers relevant to the claim...»<sup>114</sup>.</p> <p>In <b>Turkey</b>, the valuation of damages resulting from conflict and displacement in the 1990s has been simplified by the adoption of a matrix indicating the calculation of standardized compensation awards<sup>115</sup>.</p>	

<p><i>EXAMPLE of Council of Europe state practice</i></p>	<p><b>Mandatory referral of claims incorrectly addressed</b></p>
<p>In <b>Turkey</b>, legal claims for compensation for damages suffered in the course of conflict in the early 1990s should be filed with the governorship of the province where the alleged losses were incurred or the incident giving rise to the loss took place. However, many applicants are IDPs who are now located in distant provinces and who, due to their social marginalization, may not have access to detailed information on how to file a claim. As a result, mandatory referral of misaddressed claims is a key protective element in instructions setting out procedures for implementation of the Compensation Law:</p>	

114 *Manual for Legislators and Policymakers*, pp. 179–80, citing UNMIK Regulation No. 2000/60 on Residential Property Claims and the Rules of Procedure and Evidence of the Housing and Property Directorate and the Housing and Property Claims Commission (31 October 2000), Articles 2.1–2.4.

115 *Manual for Legislators and Policymakers*, p. 180, citing Compensation Matrix and Methodology for Compensation Matrix, Ministry of Interior of Turkey (March 2007).

Applications filed with other governorships, deputy governorships, representations of the Republic of Turkey abroad, other ministries, and other public agencies and institutions than the concerned governorship shall be referred to the concerned governorship forthwith and the applicant shall be informed of the same. In such cases, [the] initial application date shall be the date on which [the] related authority received the application<sup>116</sup>.

## ACCESS to JUSTICE and LEGAL ASSISTANCE

### Key message

*IDPs, like all persons, have the right to access justice, including access to legal aid. States are expected to take any special measures needed to enable IDPs to exercise this right. Such measures should take into account IDPs' specific needs and any particular obstacles they face in accessing legal assistance.*

**A**ccess to justice is a basic principle of the rule of law and, as the Council of Europe has emphasized, is «an essential feature of any democratic society»<sup>117</sup>. This fundamental right is protected by international law, including the European Convention on Human Rights (ECHR). It encompasses the right of access to the courts, to fair proceedings and to proceedings within a reasonable time. It also provides a right to self-representation or to be advised, defended and represented.

— Yet, one of the major obstacles that many people face to actual enjoyment of this right of access to justice is the cost of legal advice and representation. Council of Europe member states accordingly have determined:

No one should be prevented by economic obstacles from pursuing or defending his [or her] right before any court determining civil, commercial, administrative, social or fiscal matters. To this end, all persons should have a right to necessary legal aid in court proceedings<sup>118</sup>.

116 *Manual for Legislators and Policymakers*, p. 178, citing Regulation No. 7955 on Compensation of Losses Resulting from Terrorist Acts and Measures Taken against Terrorism (October 2004), Article 8.

117 Council of Europe Resolution 78(8) on Legal Aid and Advice, adopted by the Committee of Ministers on 2 March 1978.

118 Council of Europe Resolution 78(8) on Legal Aid and Advice, adopted by the Committee of Ministers on 2 March 1978, Appendix to Resolution 78(8), Part I—Legal aid in court proceedings, para. 1. See also *ibid.*, paras. 1–2 which also specify that when determining whether legal aid is necessary, a person's financial resources and obligations as well as the cost of the proceedings shall be taken into account. Further: «Legal aid should be available even where a person is able to pay part of the costs of his proceedings. In that case, legal aid may be available with a financial contribution by the assisted person which shall not exceed what that person can pay without undue hardship».

— In this same connection, Council of Europe member states consider that «it is therefore important to take all necessary steps with a view to eliminating economic obstacles to legal proceedings and that the existence of appropriate systems of legal aid will contribute to the achievement of this aim especially for those in an economically weak position»<sup>119</sup>. Furthermore, to facilitate effective access to the law and to justice for «the very poor – understood to mean persons who are particularly deprived, marginalized or excluded from society both in economic and in social and cultural terms», the Committee of Ministers has recommended that governments of member states take a number of specific measures, including:

- ◆ Promoting, where necessary, action to make the legal profession aware of the problems of the very poor;
- ◆ Promoting legal advice services for the very poor;
- ◆ Defraying the cost of legal advice for the very poor through legal aid, without prejudice to the payment of a modest contribution by the persons benefiting from such advice where this is required by domestic law; and
- ◆ Promoting the setting up where the need seems to appear of advice centres in underprivileged areas<sup>120</sup>.

— The Parliamentary Assembly of the Council of Europe (PACE) has recommended that the Committee of Ministers call upon member states experiencing internal displacement to provide IDPs with free legal assistance<sup>121</sup>.

— Globally, the United Nations Declaration of the High-level Meeting on the Rule of Law reaffirms the right of access to justice, emphasizes that it is a right of «equal access to justice for all, including members of vulnerable groups» and in this regard contains a commitment by UN member states to take «all necessary steps to provide fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for all, including legal aid»<sup>122</sup>. The United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Sys-

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119 Council of Europe Resolution 78(8), Preamble.

120 Council of Europe Recommendation No. R(93)1 of the Commission of Ministers to Member States on Effective Access to Justice for the Very Poor, adopted by the CoM on 8 January 1993, Preamble and para. 1.

121 PACE Rec 1877 (2009), para. 15.3.7.

122 United Nations Declaration of the High-level Meeting on the Rule of Law, adopted by Heads of State and Government on 24 September 2012, para. 14.

tems<sup>123</sup>, which is the first universal international instrument on the right to legal aid, establishes minimum standards for the right to legal aid in criminal justice systems and provide practical guidance on how to ensure access to effective criminal legal aid services. Principle 10 on «Equity to access to legal aid» specifies that «[s]pecial measures should be taken to ensure meaningful access to legal aid for women, children and groups with special needs, including [...] internally displaced persons» and that «[s]uch measures should address the special needs of those groups, including gender-sensitive and age-appropriate measures». Further, states should «ensure that legal aid is provided to persons living in rural, remote and economically and socially disadvantaged areas and to persons who are members of economically and socially disadvantaged groups»<sup>124</sup>. Similarly, Guideline 11 regarding national legal aid systems schemes stresses that in the design of such systems states «should take into account the needs of specific groups, including but not limited to [...] internally displaced persons»<sup>125</sup>.

EXAMPLE of Council of Europe state practice	<b>A state-funded legal aid service with mobile units to reach IDP settlements</b>
<p>In <b>Georgia</b>, as part of comprehensive democratic reforms following the Rose Revolution of 2003, the Government created a state-funded legal aid service in 2007. Subsequent support from the United Nations Development Programme (UNDP) to the legal aid service enabled enhancements to the quality of service and rapid expansion of its geographic reach, to achieve nationwide coverage by 2012. In addition to eleven Legal Aid Service offices and three consultation centres countrywide, the Legal Aid Service also established mobile units in order to reach remote, rural and impoverished regions of the country and to areas with high concentrations of marginalized communities, including IDPs.</p> <p>For example, the city of Gori in the Shida Kartli region is home to some 30,000 IDPs displaced by the 2008 conflict. The Legal Aid Service established an office there which, as UNDP reports, «soon became an essential resource as people struggled to reclaim stability in their lives by recovering lost legal documents, registering for state aid, or resolving property and other legal issues». From 2009–2010 alone, the six public attorneys in the Gori office</p>	

123 United Nations Office on Drugs and Crime, *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems*, adopted by the UN General Assembly, in Resolution 67/187 (December 2012).

124 Ibid., paras. 32–33: Principle 10.

125 Ibid., para. 57.

provided 765 free consultations on a range of civil and criminal law issues and representation in 796 criminal cases. Moreover, since traveling to the city of Gori is not always easy or even possible for IDPs and other people living in impoverished villages in the wider area that was directly affected by the conflict, the Legal Aid Service sends mobile legal teams to go out to them, reaching even remote locations. The mobile teams provide information and offer legal advice and assistance on specific cases.

Nationally, the Legal Aid Service engages in a robust program of public outreach and legal education that widely disseminates information on legal rights, including through public roundtables as well as radio and TV broadcasts. In 2010, a TV clip prompted an increase in the rate of the applications for legal consultations and a spike in visits to the program website, from 6,000 in 2009 to 16,000 in 2010. In 2010 alone, the Legal Aid Service received 20,000 requests for information, provided 12,000 legal consultations and helped prepare for and litigate over 10,000 court cases<sup>126</sup>. The Legal Aid Service established by the Government of Georgia enables citizens of Georgia, regardless of where they live or whether or not they can pay for legal counsel or whether they are in IDP, to exercise their right to access justice. It has provided IDPs, including those in remote locations, with essential legal information about their rights and legal assistance to address such key issues as replacement of documentation, access to aid, and restitution of, or compensation for damages to, their housing, land, and property.

## STATE FOCAL POINT INSTITUTION for ADDRESSING INTERNAL DISPLACEMENT

### Key message

*«The government should establish a centralised state entity (or at least should appoint a senior official in the government) in charge of overall co-ordination of the humanitarian response to the IDP situation».*

*Council of Europe Commissioner for Human Rights,  
Letter to the Prime Minister of Ukraine, August 2014*

In any country experiencing internal displacement, it is important that the government appoint a national focal point institution for addressing internal displacement. This is essential for facilitating co-ordination, both within government as well as between the govern-

<sup>126</sup> UNDP, Legal Aid Service in Georgia, available at: [http://www.undp.org/content/undp/en/home/ourwork/democraticgovernance/projects\\_and\\_initiatives/georgia\\_justice\\_forall.html](http://www.undp.org/content/undp/en/home/ourwork/democraticgovernance/projects_and_initiatives/georgia_justice_forall.html)

ment and all other actors engaged in responding to internal displacement, including civil society, international humanitarian and development agencies and NGOs, and regional organizations.

— Designation of a focal point institution for internal displacement at the national level and, where appropriate, also the sub-national level, is considered to be a key benchmark of national responsibility for addressing internal displacement and a minimum essential element of state regulation<sup>127</sup>. United Nations resolutions encourage any state experiencing internal displacement to identify «a national focal point within the Government for issues concerning internal displacement»<sup>128</sup>. Within the Council of Europe, the Parliamentary Assembly has recommended the Committee of Ministers call upon member states affected by internal displacement «to review, enact and implement national strategies and action plans by setting out a clear legal and institutional framework assuring effective protection of IDPs and addressing their specific vulnerabilities»<sup>129</sup>.

— The *Framework for National Responsibility* explains that there are several different options for a national institutional focal point for addressing internal displacement, and reports that this usually takes one of the following forms:

- An existing government ministry or agency with a relevant mandate is additionally charged with lead responsibility for IDP issues;
- A new government ministry or agency is specifically established to coordinate responses to displacement;
- An inter-ministerial committee or commission, comprised of all relevant government ministries and agencies, is established for this purpose.

— Further, these institutional options are not necessarily mutually exclusive. For instance, in Georgia, in addition to the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees being assigned lead responsibility for IDPs (as well as refugees), there also exists an inter-ministerial Steering Committee, chaired by this Ministry, for implementation of the Action Plan of the State Strategy on Internally Displaced Persons.

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127 *Framework for National Responsibility*, p. 18; *Manual for Legislators and Policymakers*, p. 263.

128 See, for example, UN Human Rights Council, Res. 32/11 (2016), para. 19

129 PACE, Rec. 1877 (2009), para. 15.3.



— Among member states of the Council of Europe, as indicated in the chart below, many different options for national focal point institutions with lead responsibility on IDP issues exist.

National Institutional Focal Point for IDPs	
Azerbaijan	State Committee for Refugees and Internally Displaced Persons
Bosnia and Herzegovina	Ministry for Human Rights and Refugees
Croatia	State Office for Reconstruction
Georgia	Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees
Kosovo	Ministry for Communities and Return
Russian Federation	Federal Migration Service
Serbia	Commissariat for Refugees and Migration
Turkey	None at national level
Ukraine	Ministry of Temporarily Occupied Territories and Internally Displaced Persons

— Whatever form a national institutional focal point for IDPs takes, the *Framework for National Responsibility* emphasizes that some institutional characteristics are essential. The national focal point institution for IDPs should have a mandate that encompasses not only provision of humanitarian assistance but also protection of IDPs' rights plus the search for safe and durable solutions to displacement. Its staff should be trained on issues of internal displacement, including on the rights of IDPs and the responsibilities of the state towards them as set out in international standards, namely the *Guiding Principles on Internal Displacement*, in regional standards such as those of the Council of Europe, and in national legislation, in particular in the national IDP law, if such legislation has been adopted. Staff of the focal point institution should play a leading role in national efforts to verify that the rights of IDPs are respected and their needs addressed. This would also include ensuring that IDPs have options as regards durable solutions to displacement, namely return or resettlement, and that they are not pressured to return or resettle in areas where conditions are insecure or unsustainable. To be effective, this body will require political authority and adequate resources, both human and financial, as well as relevant technical knowledge to carry out its mandate<sup>130</sup>.

130 *Framework for National Responsibility*, p. 18.

— It should be noted that a national institutional focal point for IDP issues is not expected to assume and implement all of the wide range of state responsibilities in a situation of internal displacement. Rather, as the term «focal point» suggests, this body should play a leading role, for instance in law and policy development, and in mobilizing and coordinating the efforts of all other relevant government actors. The *Framework for National Responsibility* emphasizes that «a national response requires the collective contributions of all relevant branches of government» including those responsible for humanitarian affairs, human rights, health, housing, education, development, political affairs such as conflict resolution, as well as the military, police and other members of the security sector<sup>131</sup>.

— Moreover, as the *Framework for National Responsibility* also points out: «To be truly national, a government’s response to internal displacement must be reflected at all levels of government.» While officials in the capital should be expected to play a lead role «in shaping a government’s response to internal displacement», «authorities at the regional and local levels, who are more likely to be in direct contact with displaced populations, also have a critically important role to play in ensuring that national responsibilities are effectively discharged on the ground»<sup>132</sup>. With reference to the *Framework for National Responsibility*, the *Manual for Legislators and Policymakers* on protecting the rights of IDPs emphasizes:

In decentralized states where the mandates of sub-national, regional, and/or local officials may give them significant responsibilities vis-à-vis IDPs, coordination should be vertical as well as horizontal, in the sense that it should not only facilitate decision-making among the various relevant actors at the central level but also ensure that clear guidance, follow-up actions, and information flow smoothly between those actors and regional and/or local coordination bodies<sup>133</sup>.

<p><i>EXAMPLE of Council of Europe state practice</i></p>	<p><b>Enhancing the capacity of the focal point ministry for IDP issues</b></p>
<p>In <b>Georgia</b>, as a follow-up to the 2007 State Strategy on Internally Displaced Persons and in particular to support implementation of its revised Action</p>	

131 Ibid., pp. 10–11.

132 Ibid., p. 10.

133 *Manual for Legislators and Policymakers*, p. 30.

Plan adopted in 2008, it was recognized that the focal point ministry for IDPs required significantly strengthened capacity in order to effectively fulfil its responsibilities to lead implementation of the Action Plan and, thus, the national response to internal displacement. A number of different international agencies, NGOs and donor institutions, most notably DRC, UNHCR, USAID, and the World Bank, in partnership with the Ministry, launched multi-year capacity-building programs, to strengthen the Ministry's performance in a number of key areas including: project management, data collection and analysis, case management, coordination (within Government, between the Ministry and its regional offices, with the international community, with IDPs), and communications<sup>134</sup>.

<p>EXAMPLE of Council of Europe state practice</p>	<p><b>Regional and municipal government focal points on IDP issues</b></p>
<p>In <b>Ukraine</b>, the Ministry of Social Policy has established special advisers on IDP issues in the regions most affected by internal displacement. Some regional governments, for instance, in Dnipro have taken the initiative to appoint a local focal point on IDP issues (<i>see the companion online publication on Ukraine for more information</i>). Moreover, appointment of a municipal focal point on IDP issues is one of the expected actions for any municipality designated, under a UNHCR initiative, a «City of Solidarity» (<i>see the chapter in this publication on «Promoting Solidarity with IDPs and Social Cohesion»</i>).</p>	

## The ROLE of PARLIAMENTARIANS

Key  
message

*Parliamentarians have a critically important role to play in promoting and ensuring an effective national response to internal displacement, in particular by supporting the development, adoption, and implementation of rights-based national laws and policies addressing IDPs' concerns, by raising awareness of IDPs' situation, and by promoting solidarity with IDPs.*

«**P**arliament,» the Secretary-General of the Inter-Parliamentary Union and UNHCR have pointed out, plays a «unique role in helping to fulfil the state's responsibility to prevent dis-

134 For more information, see Erin Mooney, «From Solidarity to Solutions: The Government Response to Internal Displacement in Georgia,» in Elizabeth Ferris, Erin Mooney and Chareen Stark, *From Responsibility to Response: Assessing National Approaches to Internal Displacement* (Brookings Institution – London School of Economics Project on Internal Displacement, 2011), pp. 203–4.

placement and to protect and assist IDPs»<sup>135</sup>. As lawmakers, Members of Parliament (MPs) can develop, support the adoption, and ensure implementation of legislation that safeguards the rights of IDPs and responds to their concerns. In addition to MPs' legislative responsibility to address internal displacement, the Inter-Parliamentary Union emphasizes that internal displacement also engages the parliamentarian's «role as a political leader». After all, «MPs represent and are accountable to their populations, some of whom may be IDPs or other members of affected populations». Moreover, even for parliamentarians from areas that are not directly affected by internal displacement or in countries with electoral systems in which parliamentarians do not represent a specific geographic area or constituency, addressing internal displacement is an important responsibility. The destabilizing impact of internal displacement typically extends far beyond the geographic areas directly affected to also affect an entire country and its institutions. As such, «[m]inimizing its effects is a matter of concern for all MPs»<sup>136</sup>.

— As lawmakers, key activities that MPs usefully can take regarding internal displacement include:

- ◆ Being familiar with and advocating compliance with international standards, namely the UN *Guiding Principles on Internal Displacement*, and regional standards on internal displacement;
- ◆ Reviewing and assessing whether and how existing general legislation in force in the country complies with international and regional standards and whether it contains gaps or poses or impediments that affect the protection of and assistance to IDPs;
- ◆ Drafting amendments to general legislation to address any such gaps or impediments that affect protection of and assistance to IDPs;
- ◆ Advocating and supporting the development and adoption of a national law on internal displacement, as a complement to existing general legislation, to address the specific concerns faced by IDPs and the particular challenges that internal displacement poses to the country and its institutions;
- ◆ Monitoring and supporting the implementation of a national law on internal displacement, including through ensuring that ade-

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135 *Internal Displacement: Responsibility and Action*, Handbook for Parliamentarians, No. 20 (Inter-Parliamentary Union and UNHCR, 2013), p. 4.

136 *Ibid.*, pp. 75–76.

quate budgetary resources are allocated from the state budget to enable effective implementation of the law on internal displacement and any other laws or policies to protect and assist IDPs<sup>137</sup>.

— Integral to their role as lawmakers, MPs are intended, the IPU points out, to serve «as an access point for civil society to decision makers»<sup>138</sup>. In the development of an IDP law, a strong relationship with civil society can be very useful for an MP. For one, civil society can help an MP to better understand and effectively advocate the concerns of IDPs and to identify necessary legislative changes. In turn, civil society can help raise awareness among an MP's constituents about the work of parliament in developing an IDP law and help to explain the bill and its implications to the MP's constituents. The IPU therefore systematically encourages MPs to provide civil society with opportunities to contribute to the development of an IDP law and any amendments as well as to notify civil society of parliament's consultation procedures on this<sup>139</sup>.

— Certainly, the «civil society» with which MPs should engage on issues of internal displacement must include IDPs themselves (men and women equally, including children, the elderly, IDPs with disabilities, minority groups, etc.) and other displacement-affected populations such as host communities. IDPs, like all citizens, have a legal right to participate in political processes. Moreover, in the development of national legislation and policy by parliament, taking into account the views of IDPs and other affected populations will help to ensure that any such legislation and policy reflects the real needs of IDPs and other displacement-affected communities, benefits from their recommendations for best addressing these needs, and builds upon affected populations' own capacities. In this latter connection, the IPU encourages parliamentarians to bear in mind that IDPs «are well positioned to provide creative solutions to complex problems, drawing from their own networks and skills»<sup>140</sup>.

— As «political leaders», MPs can be instrumental to raising awareness, both within parliament and in the public at large, of the specific concerns faced by IDPs. This can be critically important to reducing any stigmas that IDPs suffer and to promoting a climate of national solidar-

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137 More detailed guidance on these and other areas of activities for parliamentarians as regards internal displacement is found in *ibid.*

138 *Ibid.*, p. 76.

139 *Ibid.*, pp. 75–76. See also, pp. 77–85 for additional recommended actions for MPs to engage civil society on issues of internal displacement.

140 *Ibid.*, p. 80.

ity towards IDPs. Promoting awareness of the rights of IDPs and the applicability of national, regional and international standards to address their plight can help to promote the development and adoption of national legislation and policy that safeguards the rights of IDPs<sup>141</sup>.

<i>EXAMPLE of Council of Europe state practice</i>	<b>Advocacy, law and policy making on internal displacement by parliamentarians</b>
<p>Among Council of Europe member states, numerous examples demonstrate the valuable role of parliamentarians in promoting an effective national response to internal displacement. These include:</p> <ul style="list-style-type: none"> <li>◆ Parliamentary hearings focusing on the situation of IDPs and/or civilians in occupied territories (e.g. Serbia, Georgia, Ukraine);</li> <li>◆ Development and adoption by Parliament of an IDP law and/or legislation addressing specific issues faced by IDPs such as property restitution or compensation (e.g. Azerbaijan, Bosnia-Herzegovina, Georgia, Ukraine);</li> <li>◆ Adoption of amendments to general legislation to address IDP rights (e.g. in Georgia, Parliament amended the Electoral Code in 2002 to remove the impediments IDPs faced in voting in local and majoritarian elections);</li> <li>◆ Review and discussion of the reports of the Ombudsperson / Public Defender that focus on the situation of internally displaced persons (e.g. Georgia, Ukraine);</li> <li>◆ Establishment of parliamentary committees focused on IDP issues (e.g. Georgia).</li> </ul>	

<i>EXAMPLE of Council of Europe state practice</i>	<b>Sustained attention by parliament to the situation of IDPs</b>
<p>In <b>Serbia</b>, the National Assembly began in 2007 to hold annual public hearings focusing on «Improvement of the Position of Refugees and Internally Displaced Persons in Serbia». At the time, refugees and IDPs in Serbia from the conflicts in the former Yugoslavia in the 1990s had already been displaced for many years. The Chairman of the Committee on Labour, Ex-Servicemen's, and Social Issues, which convened these hearings, explained that they were «organized to give voice to the problems that they still face and a possible</p>	

141 Ibid., pp. 81–85.

way to permanently solve the issue of refugees in the region»<sup>142</sup>. Participants in the hearing have included a wide array of stakeholders.

Just as important as these parliamentary hearings dedicated to IDP issues, and an important indicator of their value and impact, is that the National Assembly also integrated attention to IDPs into other relevant aspects of the Assembly's work, including parliamentary committee work, law and policy development, and hearings regarding: human rights; extreme poverty; older persons; Roma; migration; employment and social entrepreneurship; and discussions regarding the national census<sup>143</sup>.

Moreover, the specific attention that parliamentarians in Serbia gave to issues of refugees and IDPs was not limited to displacement crises in their own country but also extended to displacement in the wider region. They also ensured specific focus to particularly vulnerable groups of refugees and IDPs, namely Roma. As part of Serbia's chairing of the Committee of Ministers of the Council of Europe, during which time Serbia considered refugee and IDP issues a priority issue, the National Assembly of the Republic of Serbia hosted a two-day international conference on «Durable Solutions for Roma Refugees, IDPs, and Returnees in the Balkans» in October 2007.

## The ROLE of the NATIONAL HUMAN RIGHTS INSTITUTION

### Key message

*«...The problem of IDPs is far from being eradicated on European soil. There have been legislative improvements at national level, while the Guiding Principles and the Council of Europe Committee of Ministers' Recommendation are to a certain extent followed, but we're only half way there yet. We need to encourage States to step up the implementation of the legislation in place and to observe human rights to the letter. We need to empower their Ombudsmen to deal more actively with IDP issues».*

*Corien W. A. Jonker,  
Former Chair of PACE Committee on Migration,  
Refugees and Population<sup>144</sup>*

142 National Assembly of the Republic of Serbia, 'Public Hearing on «Improvement of the Position of Refugees and Internally displaced persons in the Serbia», 5 November 2008.

143 See, for example: [http://www.parlament.gov.rs/Roundtable\\_Held\\_on\\_Human\\_Dignity\\_in\\_the\\_Face\\_of\\_Po.12101.537.html](http://www.parlament.gov.rs/Roundtable_Held_on_Human_Dignity_in_the_Face_of_Po.12101.537.html); [http://www.parlament.gov.rs/Public\\_Hearing\\_on\\_Bill\\_on\\_Social\\_Entrepreneurship\\_and\\_Employment\\_in\\_Social\\_Enterprises.18911.537.html](http://www.parlament.gov.rs/Public_Hearing_on_Bill_on_Social_Entrepreneurship_and_Employment_in_Social_Enterprises.18911.537.html); [http://www.parlament.gov.rs/National\\_Assembly\\_Speaker's\\_Address\\_at\\_Interparliamentary\\_Organisation\\_of\\_Roma\\_Solemn\\_Session\\_.18487.537.html](http://www.parlament.gov.rs/National_Assembly_Speaker's_Address_at_Interparliamentary_Organisation_of_Roma_Solemn_Session_.18487.537.html); [http://www.parlament.gov.rs/Thirty-Fourth\\_Sitting\\_of\\_the\\_Committee\\_on\\_Science\\_.7483.537.html](http://www.parlament.gov.rs/Thirty-Fourth_Sitting_of_the_Committee_on_Science_.7483.537.html)

144 Presentation by Corien W. A. Jonker, Chair of PACE Committee on Migration, Refugees and Population, at the conference «Ten Years of Guiding Principles on Internal Displacement: Achievements and Future Challenges,» 16 October 2008.

— National human rights institutions (NHRIs), although established and funded by the State, are mechanisms intended to operate independently to advance human rights in a country. They have a unique and instrumental role to play in promoting and protecting the rights of IDPs. An NHRI can take various forms, including: a national human rights commission, an ombudsman, or a public defender. Whichever form they take, NHRIs can contribute to the protection of the rights of IDPs in numerous ways, including:

- Monitoring IDPs' conditions to ensure that IDPs enjoy the same rights as others in the country, that they do not face discrimination in accessing their rights, and that they receive the protection and assistance they require and to which they are entitled;
- Conducting inquiries into reports of violations of IDPs' rights, including by receiving and reviewing individual complaints from IDPs, and working to ensure an effective response by the authorities;
- Following up on early warnings of displacement and ensuring that authorities take necessary actions to prevent arbitrary displacement;
- Advising the government in the development of national laws and policies on internal displacement;
- Monitoring and reporting on the government's implementation of national laws policies and strategies on internal displacement;
- Undertaking educational activities and training programs, e.g. for government officials, civil society and the media, on IDPs' human rights;
- Ensuring that IDPs are informed about and consulted in the development of laws and policies regarding internal displacement;
- Establishing a monitoring presence in areas where IDPs' and other civilians' physical security is at grave risk and monitoring the return or resettlement of IDPs to ensure that it is voluntary and occurs in conditions of safety<sup>145</sup>.

— In any country experiencing internal displacement, encouraging the NHRI to exercise its authority and mandate to monitor and report

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<sup>145</sup> *Framework for National Responsibility*, pp. 19–20.



on respect for IDPs' human rights is considered a benchmark of national responsibility and a minimum essential element of state regulation<sup>146</sup>. The Parliamentary Assembly of the Council of Europe (PACE) has encouraged member states to support national and other human rights institutions «in their capacity to encourage governments to address the limited access of IDPs to their rights». PACE has also encouraged the Council of Europe Commissioner for Human Rights «to bring together national human rights institutions and ombudspersons from the regions that currently have long-term IDPs in order to assess the progress made in accomplishing various Council of Europe recommendations on protecting IDPs' rights and identify the remaining obstacles for securing durable solutions»<sup>147</sup>.

EXAMPLE of Council of Europe state practice	<b>Strengthening the capacity of the national human rights institution to monitor and report on IDP issues</b>
<p>In <b>Georgia</b>, the Office of the Public Defender, has been actively monitoring and reporting on IDP issues for more than a decade, as evidenced in its reports to Parliament, which since at least 2004 have included a dedicated chapter on IDP and refugee issues. After renewed conflict and another significant IDP crisis in 2008, the Office of the Public Defender intensified its work on IDP issues.</p> <p>In 2010, to support the Office of the Public Defender's work in this regard, the Council of Europe High Commissioner for Human Rights launched a project entitled «Support to Public Defender's (Ombudsman's) Office in Solving the Problems Related to IDPs and Persons Affected by Conflict»<sup>148</sup>. Through this project, six new staff members (five lawyers and one psychologist) were hired, among whom five were stationed in regional offices. After receiving training on IDP issues and the <i>Guiding Principles on Internal Displacement</i> that was provided by the Council of Europe, UNHCR, IDMC and NRC, the monitors began to conduct regular visits to IDP collective centers and other IDP settlements. They also began to provide on-site legal consultations and, in cooperation with the regional offices of the Ministry of Internally Displaced Persons from the Occupied Territories, to work to resolve the human rights violations and other problems that IDPs reported. The team undertook</p>	

146 Ibid.; and Legislators' Manual, p. 263.

147 PACE, Recommendation 1877 (2009) «Europe's forgotten people: Protecting the human rights of long-term displaced persons», adopted 24 June 2009, paras 15.5.3 and 17.

148 Currently, in 2016, the project is co-funded by the U.K. and UNHCR.

a survey of IDPs in collective centres as well as a separate survey on the situation of IDPs in private accommodation, thereby helping to address a long-standing gap in the government's data collection efforts. Based on data collected by the monitors, in 2010, the Public Defender presented to Parliament a special report devoted to the human rights situation of IDPs and other conflict-affected persons in Georgia. The report included an analysis of existing national legislation, policies and programs for IDPs and a number of recommendations to the government. The Public Defender also intensified advocacy on IDP rights, issuing a number of public statements and press releases on specific issues, in particular concerning the process for privatizing and rehabilitating collective centres and related concerns about the eviction of IDPs<sup>149</sup>.

The Public Defender remains actively engaged in advocating, monitoring, and reporting on IDPs' rights. In 2015, the Public Defender's Office provided legal consultation to more than 900 IDPs and carried out more than 700 visits to IDP collective centres. In 2016, the Public Defender issued another special report to Parliament on the human rights of IDPs. He continues to receive and make recommendations on individual complaints lodged by IDPs, for instance in cases when IDPs face difficulty in accessing the special IDP allowance provided for by national law and/or the housing assistance programs of the government<sup>150</sup>. The Public Defender also remains a member of the Steering Committee for implementation of the State Strategy on Internally Displaced Persons.

<p><i>EXAMPLE of Council of Europe state practice</i></p>	<p><b>Review and recommendations by the Ombudsperson in individual cases alleging violations of IDPs' rights to housing</b></p>
<p>In <b>Bosnia and Herzegovina</b>, the Ombudsperson is mandated to receive individual complaints on human rights issues. A number of the complaints received and acted upon by the Ombudsperson have concerned IDPs. For example, in May 2016, the Ombudsperson issued a recommendation concerning the situation of an individual who is officially recognized, under</p>	

149 For a summary and analysis of the Office of the Public Defender's work on IDP issues, see Mooney, «From Solidarity to Solutions», in Ferris, Mooney and Stark, pp. 206–208. See also pp. 103–104 in *ibid*

150 See, for example, Public Defender of Georgia, *Human Rights Situation of Internally Displaced Persons in Georgia* (21 June 2016), <http://www.ombudsman.ge/en/reports/specialuri-angarishebi/human-rights-situation-of-internally-displaced-persons-in-georgia.page>; Public Defender's Office, Information Bulletin (September 2016), available at <http://www.ombudsman.ge/uploads/other/3/3944.pdf>.

national and entity law, to have the status of displaced person, and who filed a complaint that she did not find a permanent solution to her loss of housing. The Ombudsman found the displaced person's complaint to be correct and determined that competent bodies of Bosnia and Herzegovina acted «in violation of the complainant's right to property guaranteed by European Convention on Human Rights and the Constitution of Bosnia and Herzegovina». The Ombudsperson issued a recommendation to the central Ministry of Human Rights and Refugees of Bosnia and Herzegovina and to the Ministry of Human Rights, Refugees and Displaced Persons of the *Republika Srpska* «to find possibilities and employ additional efforts to enable the complainant the enjoyment of her rights enshrined by the Constitution of Bosnia and Herzegovina, that is, to find her the appropriate housing on the territory of Banja Luka or grant her financial compensation in accordance with its international obligations»<sup>151</sup>.

## A STRATEGY and ACTION PLAN to ADDRESS INTERNAL DISPLACEMENT

### Key message

*«National governments need to recall their primary responsibility for the well-being and protection of their citizens and lead efforts to develop and implement long-term strategies to address internal displacement and support durable solutions. National governments and communities need to adopt inclusive policies to integrate displaced people better into society and social safety nets; to recognize them as socio-economic assets and contributors; to allocate the appropriate amount of domestic resources to meet their needs in a transparent and sustainable way; and to strengthen the laws that ensure the protection and human rights of displaced people».*

*Former United Nations Secretary-General  
Ban Ki-Moon<sup>152</sup>*

In any country experiencing internal displacement, another benchmark of national responsibility is for the government to develop, adopt, and implement a national policy or strategy and action plan for addressing internal displacement<sup>153</sup>. Globally, UN resolutions have encouraged governments in countries experiencing internal displacement

151 «Ombudsperson of Bosnia and Herzegovina Issued a Recommendation Related to Taking Care of a Displaced Person,» Press statement, 23 May 2016.

152 United Nations, Report of the Secretary-General to the World Humanitarian Summit, para. 84

153 *Framework for National Responsibility*, p. 17.

ment to do so<sup>154</sup>. Within the Council of Europe, PACE has recommended that the Committee of Ministers call upon member states affected by internal displacement «to work out, together with IDPs, durable solutions, and in particular to review, enact and implement national strategies and action plans»<sup>155</sup>. Indeed, developing such national strategies, policies and action plans in partnership with IDPs will enhance both the relevance and the legitimacy of such documents.

— A number of Council of Europe member States have indeed adopted national policies or strategies and action plans to address internal displacement.

Council of Europe member state	Examples of state strategy documents to address internal displacement
Azerbaijan	◆ State Programme for the Improvement of the Living Standards and Generation of Employment for Refugees and IDPs, 2004 (amended in 2007, 2013) <sup>156</sup>
Bosnia and Herzegovina	◆ Revised strategy of Bosnia and Herzegovina for the Implementation of Annex VII of the Dayton Peace Agreement, 2010 <sup>157</sup>
Georgia	◆ State Strategy on Internally Displaced Persons, 2007 <sup>158</sup> ◆ Action Plan to implement the State Strategy (2008, revised 2009)
Serbia	◆ National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons, 2002 (revised 2011) <sup>159</sup>
Turkey	◆ Van Provincial Action Plan for Responding to IDPs' Needs <sup>160</sup>

— In all of the above-mentioned examples, the documents were adopted several years – and in some cases more than a decade – into the displacement crisis. Consequently, these documents tend to strongly focus on improving the living conditions and self-reliance of IDPs and

154 See, for example, United Nations, Human Rights Council, Resolution 32/11 of 2016, para. 19; UN ECOSOC resolution 2004/5, para. 39; UN ECOSOC Resolutions 2003/5, para. 9.

155 PACE, Re. 1877 (2009), par. 15.3.

156 See <http://www.mfa.gov.az/en/content/117>

157 <http://www.mhrr.gov.ba/PDF/lzbieglice/Revidirano%20strategija%20Engleski.pdf>

158 <http://mra.gov.ge/res/docs/2013112112105167523.pdf>

159 <http://www.kirs.gov.rs/articles/navigate.php?type1=14&lang=ENG&date=0>

160 [https://www.brookings.edu/wp-content/uploads/2016/07/Turkey\\_VanActionPlan\\_2006.pdf](https://www.brookings.edu/wp-content/uploads/2016/07/Turkey_VanActionPlan_2006.pdf)

supporting safe and sustainable solutions to internal displacement. Regarding Ukraine, the Council of Europe Commissioner on Human Rights emphasized in 2014 in a letter to the Prime Minister: «there is an acute need to develop a governmental strategy to provide durable solutions with regard to accommodation and opportunities for livelihood for those displaced persons who may not be in a position to return to their original place of residence in the months to come».

<i>EXAMPLE of Council of Europe state practice</i>	<b>Establishing a state commission to develop the strategy</b>
<p>In <b>Georgia</b>, a Presidential decree in 2006 established a State Commission to develop and oversee the implementation of a State strategy to address internal displacement. Chaired by the Minister for Refugees and IDPs, the State Commission was inter-ministerial in nature, also comprising ministries of: justice; economy and sustainable development; finance; labour, health and social affairs; education and science; agriculture; reconciliation and civil equality, foreign affairs, etc. Also participating in the State Commission were the chairpersons of relevant parliamentary committees (namely, the committees on: human rights and civic integration; health and social issues; restoration of territorial integrity; finance and budget; representatives of the National Security Council; and representatives of the government-in-exile from the occupied territories). Considering the high-level of representation (ministerial level), the State Commission met only periodically, with a focus on strategic issues; the day-to-day work of undertaking analysis and drafting the strategy was led by technical experts of the various ministries. Even so, the establishment of the State Commission proved critically important in engaging and mobilizing the involvement of a broader range of government actors, beyond the focal point ministry for IDPs, which also had essential contributions to make to government efforts to address internal displacement. Consultations within the State Commission throughout the process of developing the strategy also proved valuable for promoting ownership in the strategy and facilitating its expeditious adoption by Cabinet, in February 2007<sup>161</sup>.</p>	

161 Mooney, «From Solidarity to Solutions», pp. 197–8.

<i>EXAMPLE of Council of Europe state practice</i>	<b>Sector-specific expert committees to develop the strategy and oversee its implementation</b>
<p>In <b>Bosnia and Herzegovina</b>, ten sectoral working groups were established to undertake expert analysis and formulate recommendations to inform and guide the government’s drafting of the strategy. Each working group brought together a wide range of stakeholders, including representatives from the various levels of government (central, Entity, district level, cantonal and in some cases also municipal), the various different line ministries, civil society, IDP associations, an array of relevant international agencies and NGOs, and regional organizations including the Council of Europe and the Organization for Security and Cooperation in Europe (OSCE). Specifically, the ten working groups covered the following issues:</p> <ul style="list-style-type: none"> <li>◆ Housing reconstruction, provision of social housing, and closure of collective centres;</li> <li>◆ Property repossession and reinstatement of occupancy rights;</li> <li>◆ Electrification of returnees’ settlements and individual housing units of returnees;</li> <li>◆ Reconstruction of infrastructure in places of intended or actual return;</li> <li>◆ Health care;</li> <li>◆ Social protection;</li> <li>◆ Education;</li> <li>◆ Right of labour and employment;</li> <li>◆ Safety of displaced persons and returnees and de-mining of return sites;</li> <li>◆ The right to damage compensation to displaced persons, refugees and returnees.</li> </ul> <p>This wide range of issues covered by the strategy was noteworthy as one of the key aims of the process of revising the strategy was to ensure that its focus broadened the long-standing focus of the government on reconstructing housing in areas of return. In the fifteen years since the end of the war, experience had shown that more comprehensive support for return</p>	

was needed, as well as alternative solutions and support for IDPs who were unable, or unwilling, to return<sup>162</sup>.

In **Georgia**, four sectoral working groups were established to undertake the expert analysis and develop recommendations to inform the state strategy. Specifically, the working groups covered: legal issues; shelter; livelihoods; and social issues, including education. For more on the modalities of these working groups, see below, later in this section, the state practice example regarding IDP participation in policy development and implementation.

<i>EXAMPLE of Council of Europe state practice</i>	<b>IDPs' participation in policy development and implementation</b>
<p>In <b>Georgia</b>, the government acknowledged in its 2007 State Strategy on Internally Displaced Persons: «In planning and implementing solutions for IDP problem, IDPs' interests and needs often have been not adequately taken into consideration; dialogue has not been conducted with them»<sup>163</sup>. The process of developing the State Strategy worked to rectify this gap. IDP associations were invited to participate and were actively involved in the process.</p> <p>Most notably, in each of the four committees (housing, economic activities, social protection and education, and legal issues) that were established by the government to inform the strategy by providing specialized sectoral analysis and recommendations, two of the only eight seats of the committee were designated for civil society (two other seats were for international organizations and the remaining four seats were for relevant government representatives, including from the Abkhaz Ministry-in-Exile). The eight designated civil society representatives participating in the sectoral committees were drawn mostly from IDP organizations, such as the IDP Women's Association and various other member organizations of the Caucasus Refugee and IDP NGO (CRINGO) network. In some cases, NGOs who were directly working with IDPs on the issue at hand were selected, e.g. one of the civil society seats on the legal issues committee was filled by the Georgian Young Lawyers Association, a country-wide network which had an established reputation combining effective advocacy on IDPs' rights, with</p>	

162 Erin Mooney and Naveed Hussain, «Unfinished Business: IDPs in Bosnia and Herzegovina», *Forced Migration Review*, Issue 33 (2009), pp. 22–24.

163 Government of Georgia, State Strategy for Internally Displaced Persons, Chapter 1.

research on IDPs' rights, and direct provision, including through regional offices, of information, legal counselling and legal assistance to IDPs. Moreover, many other members of each committee, though not formally serving as civil society / IDP representatives, were IDPs themselves. Indeed, every committee included, among its four governmental representatives, a representative from the Abkhaz Government-in-Exile, which by definition is comprised of IDPs.

In addition to incorporating a participatory process, the resulting State Strategy commits, as the second of its ten guiding principles, that its implementation will be based on «dialogue with IDPs and their participation in decision-making: IDPs participate in the planning and implementing of activities envisaged in the strategy». Similar to the process by which the Strategy was developed, its implementation (which was temporarily halted as a result of renewed conflict in 2008 and a new IDP crisis) was guided by so-called «Temporary Expert Groups» (TEGs) on key sectoral issues, the membership of which was less defined and was not limited to eight members; IDP associations still had the opportunity to participate. In addition, the Strategy envisaged and committed to ensuring that IDPs would be engaged in monitoring the implementation of the Strategy and its Action Plan: «In monitoring implementation of the strategy, much importance is given to the participation of IDPs themselves and of civil society, as well as to the transparency of the process». Accordingly, when a Steering Committee was established by the Ministry in 2009 to oversee implementation of the new action plan (revised, after the 2008 conflict), two seats were reserved for local NGOs, the selection of which was left to the NGO Forum to determine<sup>164</sup>.

<p><i>EXAMPLE of Council of Europe state practice</i></p>	<p><b>Municipal action plans to facilitate durable solutions to displacement</b></p>
<p>In <b>Serbia</b>, the <i>National Strategy for Resolving Problems of Refugees and Internally Displaced Persons</i> provides for the development not only of a national action plan for its implementation but also local action plans by municipalities hosting large numbers of refugees, IDPs and returnees. The Local Action Plans (LAPs) assess the number and needs of these displaced persons and specify measures, in particular but not limited to the areas of housing and employment, to support their sustainable integration into the</p>	

<sup>164</sup> Mooney, «From Solidarity to Solutions,» p. 208.



community. Relevant institutions of municipal government receive training from the State Commissariat for Refugees and Migration regarding the preparation of LAPs, which are elaborated in consultation with displaced persons and the resident population as well as with civil society and international agencies and NGOs working in the area; Migration Councils comprised of these same stakeholders then are established to oversee implementation of the LAP.

To date, 146 municipalities or cities have received the training and 135 municipalities or cities, of which 12 are in Kosovo and Metohija, have prepared and adopted LAPs. Of these 135 municipalities/cities with LAPs, eighty percent have implemented the expectation to create a special budget line through which the local government co-finances projects in the amount of five percent; in some places, local governments have decided to fund projects upwards of thirty percent. The State Commission provides a grant matching the funds provided by the municipality; the remaining funds are mobilized from the international community and other sources. From 2008 to 2013, the government of Serbia provided approximately two billion Serbian dinar to support 160 municipalities and cities to support local projects supporting refugees and IDPs' integration, for instance, through the provision of housing building material to 3,000 families, the purchase of 266 houses with a garden large enough to support self-sufficient and income generation, other types of housing support, and economic empowerment support for 2,664 refugee and IDP households. To support the implementation of LAPs in 40 municipalities, the European Union has allocated €3,7 million, while UNHCR has allocated US 2.7 million dollars<sup>165</sup>.

<p><i>EXAMPLE of Council of Europe state practice</i></p>	<p><b>A provincial action plan developed through a participatory process</b></p>
<p>In <b>Turkey</b>, the south-eastern province of Van, where there are a large number of IDPs, adopted an action plan for supporting durable solutions for IDPs living in the province. The action plan was developed based on extensive consultation with various stakeholders, including IDPs themselves, as well as representatives of district governorates and other local authorities, non-governmental organizations, private sector representatives, business</p>	

165 Serbian Commissariat for Refugees, «Local Action Plans (LAP),» available at <http://www.kirs.gov.rs/articles/aboutlap.php?type1=4&lang=ENG>. See also, *IASC Framework for Durable Solutions*, p. 20.

and professional chambers, employer organizations and labour unions, and with support from UNDP.

The Action Plan aims to support local integration of impoverished IDPs through the «expansion of existing initiatives» for social protection and livelihoods support (see chapter in this publication on Livelihoods, Social Protection and Pensions). In pursuit of its overall aim of «[r]educing an implicit ‘culture of dependency’», the Action Plan «envisions the transformation of IDPs from passive recipients of assistance and services into active citizens involved in decision-making processes as well as service delivery mechanism who demand roles of responsibility, especially with regard to determining the type, quality, quantity, place, and priorities of services»<sup>166</sup>.

## RESOURCE ALLOCATION

### Key message

*«There is no question that the primary responsibility for protecting displaced persons lies with governments and local authorities. It is at this level that the difference will finally need to be made. Thus national authorities need to be urged to devote resources, expertise and political will to address the specific vulnerability of IDPs».*

*PACE Committee on Migration, Refugees and Population*<sup>167</sup>

In any country experiencing internal displacement, the government is expected to allocate sufficient financial resources to respond to internal displacement in all phases: protection against arbitrary displacement and protection of civilians in flight; assistance and protection of IDPs during displacement; and to create conditions enabling durable solutions to displacement. This is considered a benchmark of national responsibility of addressing internal displacement and a minimum essential element of state regulation<sup>168</sup>. At the same time, the *Framework for National Responsibility* emphasizes:

This is not to say that governments need to carry the financial burden of addressing internal displacement entirely alone. Indeed, where a government lacks sufficient capacity to address the needs of the internally displaced, it can and indeed should turn to the international community for assistance. Even then, a government’s

<sup>166</sup> Van Action Plan, op cit. Edited example adapted from *Manual for Legislators and Policymakers*, 34 and 92.

<sup>167</sup> Presentation by Corien W. A. Jonker, Chair of PACE Committee on Migration, Refugees and Population, at the conference «Ten Years of Guiding Principles on Internal Displacement: Achievements and Future Challenges,» 16 October 2008.

<sup>168</sup> *Framework for National Responsibility*, p. 24 and *Manual for Legislators*, p. 263.

indication, through whatever budgetary allocations are possible as well as through policy and program initiatives, that the issue of internal displacement constitutes a national priority can be important for securing international commitments to provide financial support to national efforts<sup>169</sup>.

— For Council of Europe member states, one unique possible important source of financial support for addressing IDP issues is the Council of Europe Development Bank (CEB). Established in 1956, specifically for the purpose of supporting solutions to the problems of refugees in Europe, the CEB provides financing and technical expertise to its member states for socially oriented projects that contribute to improving the living conditions of the most disadvantaged population groups. Displacement continues to be one of its strategic priorities. In recent years, PACE has called on CEB «to step up its co-operation with the member states concerned with a view to financing more projects regarding returning refugees and IDPs»<sup>170</sup>.

— Further, as the Council of Europe has emphasized, in situations of internal displacement there is an «absolute necessity of ensuring that financial aid provided by national or international bodies is not diverted from its original destination, that it is being distributed in a transparent way, and that accountability is ensured at every stage of the aid process»<sup>171</sup>.

<i>EXAMPLE of Council of Europe state practice</i>	<b>Specifying in national legislation which costs related to responding to IDPs will be covered by which level and office of government</b>
<p>In <b>Georgia</b>, the Law on Forcibly Displaced Persons–Persecuted Persons devotes a chapter specifying that «financial expenses to IDPs shall be borne by the state and local budgets». It indicates which level of government is responsible for various different costs; for example, while the Ministry for IDPs is responsible for providing IDPs with their local monthly allowance, local authorities are to cover the cost of burial expenses in the case of death of an IDP. At the same time, the Law recognizes that comprehensively responding to internal displacement is certain to require «additional financial sources</p>	

169 *Framework for National Responsibility*, p. 24.

170 PACE, Recommendation 1877 (2009), adopted 24 June 2009, para. 18.

171 Council of Europe CoM Explanatory Memo.

or reserve budget funds, donations from private entities and financial assistance rendered by other governments and international organizations»<sup>172</sup>.

<i>EXAMPLE of Council of Europe state practice</i>	<b>Earmarking state revenue to specifically address IDP issues</b>
<p>In <b>Azerbaijan</b>, as significant new revenue was generated from the petrochemical industry, the Government took the initiative to earmark some of these funds to specifically address the concerns of IDPs. In 2013, the State Oil Fund for Azerbaijan channelled some USD \$600 million to improving IDPs' living and housing conditions. By the end of 2013, it was estimated that the Government had spent USD \$5.4 billion dollars on IDP issues over the past two decades since the crisis of internal displacement began<sup>173</sup>.</p>	

<i>EXAMPLE of Council of Europe state practice</i>	<b>Budgetary allocations for compensation</b>
<p>In <b>Turkey</b>, the Government adopted in 2004 a Law on the Compensation of Damages that Occurred due to the Terror and the Fight against Terror. Among the measures provided for in the Law was the establishment of a Damage Assessments Commission to award compensation for damages to property or person. In addition to specifying the compensation formula and amounts for various different damages [see also Property chapter], the Law also specifies the budgetary resources for operating the Commission and for the compensation payments that it awards. In particular, the Commission's expenses are to be met from the regular budget of the Ministry of the Interior (Article 6 of the Law), and compensation awarded shall be paid «- according to the type of payment – from an appropriation set aside from the Ministry's budget» (Article 13)<sup>174</sup>.</p>	

172 Government of Georgia, *Law of Georgia on Forcibly Displaced Persons – Persecuted Persons, 1996, as amended 25 October 2010*, Article 10; Article 5(2)(j). For more information and analysis on the financial resource issues regarding the response to internal displacement in Georgia, see Mooney, «From Solutions to Solidarity», pp. 223–226.

173 «Azerbaijan: After more than 20 years, IDPs still urgently need policies to support full integration,» (IDMC and NRC, 26 March 2014), citing various sources, including the World Bank.

174 Example adapted from *IPU Handbook*, p. 90.

<p><i>EXAMPLE of Council of Europe state practice</i></p>	<p><b>Promoting transparency in the use of funds for responding to IDP issues</b></p>
<p>In <b>Georgia</b>, the steering committee that was established to oversee implementation of the action plan for implementing the action plan for the state strategy on IDPs includes among its members the NGO Transparency International, which monitors and reports on corruption<sup>175</sup>.</p>	



Additional examples of resource allocation for addressing internal displacement are found elsewhere in this publication, in particular in the chapters on: «Adequate Housing» (BiH: CEB loan) and «Strategy and Action Plan» (Serbia: Municipal Action Plans).

## INFORMING and CONSULTING IDPs

### Key message

*«Internally displaced persons should be properly informed, but also consulted to the extent possible, in respect of any decision affecting their situation prior to, during or after their displacement».*

*Council of Europe, Committee of Ministers,  
Recommendation on Internally Displaced Persons*

IDPs must have adequate information about the programs and policies affecting their lives and an opportunity to have a say in these decisions. This is their right, which is reaffirmed throughout the *Guiding Principles on Internal Displacement*, and across all phases of displacement, from prevention of arbitrary displacement, to protection and assistance during displacement, through durable solutions. Doing so accordingly is considered to be one of the «minimum essential elements of state regulation» for protecting IDPs<sup>176</sup>. The Council of Europe has emphasized that the right of IDPs to be informed and consulted is «particularly important with respect to reintegration and rehabilitation programmes proposed to IDPs»<sup>177</sup>. Indeed, for a solution to displacement – whether IDPs choose return, local integration, or resettlement in another part of the country – IDPs’ access to objective and up to date information about the conditions in these areas as well as about the support that will be provided by the government in each solution sce-

175 See Mooney, «From Solidarity to Solutions», pp. 199 and 226.

176 *Manual for Legislators and Policymakers*, p. 263.

177 Council of Europe CoM, Explanatory Memo.

nario, is an essential element of a voluntary solution<sup>178</sup>. The Guiding Principles underscore: «Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration»<sup>179</sup>.

— In all phases of displacement, information and consultation processes must be accessible to the many different groups within an IDP population, including women, youth, older persons, persons with disabilities, minorities and other typically marginalized groups. To ensure this, the Guiding Principles point out that special efforts may be required and should be made<sup>180</sup>. Information outreach and consultation efforts should also focus on reaching remote areas and be extended to IDPs who are not connected with any organization or IDP association.

<p><i>EXAMPLE of Council of Europe state practice</i></p>	<p><b>An IDP «hotline», IDP reception centres, and a website established by the Ministry for IDPs</b></p>
<p>In <b>Georgia</b>, even years after the two distinct internal displacement crises began in the early 1990s (and continue to this day), numerous assessments found that IDPs still lacked adequate information about government programs and policies concerning their situation. The State Strategy for IDPs adopted by the government in 2007 itself acknowledged this gap and set out a number of commitments for addressing to address it. Among these, the Strategy provided for «a comprehensive information campaign through which IDPs regularly receive updated information on all aspects and components of the action plan»<sup>181</sup>. However, two years later, it still was the case, as a gap analysis by UNHCR found:</p> <p style="padding-left: 40px;">There is not enough explanation about policies launched by the government and insufficient encouragement of IDP participation. IDPs, especially in rural areas or in the small towns, live in completely isolated circumstances without access to information relating to them<sup>182</sup>.</p> <p>The Public Defender noted the following year: «When addressing state policy, one of the most acute problems – the lack of communication between IDPs and the ministry – should be emphasized»<sup>183</sup>.</p>	

178 IASC Framework on Durable Solutions for Internally Displaced Persons, pp. 15–19.

179 Guiding Principles on Internal Displacement, Principle 28(2).

180 Guiding Principles on Internal Displacement, Principles 7(3)(d), 18(3) and see also Principle 4(2).

181 State Strategy, Chapter VI, para. 1.5.

182 UNHCR, *Protection of Internally Displaced Persons: A Gap Analysis* (UNHCR and EU, July 2009), p. 10.

183 Public Defender, *Report on the Human Rights Situation of Internally Displaced Persons and Conflict-Affected Individuals in Georgia* (September 2010), p. 12.

To address these concerns and provide essential information to IDPs, the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees instituted, with international support, three major initiatives: an IDP hotline, IDP reception centres and a website.

**IDP hotline:** In 2008, the Ministry established an IDP hotline with support from UNHCR and subsequently also from USAID and DRC. The telephone hotline, which is free to ring, operates daily from 09:00 to 23:00. It provides essential information to IDPs about how to access government assistance and programs for which they are eligible. As an indication that this information was desperately sought by IDPs, in the initial months, the hotline received an average of 1,000 calls a day<sup>184</sup>. Still in 2016, the hotline received more than 40,000 calls<sup>185</sup>.

**IDP reception centres:** Prior to the establishment in 2009 of an IDP reception centre in the Ministry, dozens and often hundreds of IDPs gathered at the Ministry building every day, crowding into the lobby, stairwells, and overflowing into the parking lot, all in the hopes of seeing the Minister or someone – anyone – who worked at the Ministry to answer their queries. This practice was inefficient, undignified for IDPs, inherently unequal in favouring those who were the most assertive, unsafe (it was a serious fire safety hazard to have crowds of people in the stairwells for hours on end) and usually unsatisfactory in enabling IDPs to access the information they required. To ensure a more systematic and safe approach and more specialized and efficient information and service provision to IDPs, a dedicated Reception Centre was established in the Ministry with support from USAID and DRC. Incorporated into the Reception Centre was a case management system to record and respond in a systematic way to the concerns of individual IDPs. Since establishment of the IDP Reception Centre in the main Ministry building in the capital, four additional reception centres have been established in the regional offices of the Ministry. The reception centres are open every weekday from 10:00 to 18:00 hours. As a result of the reception centres being able to address many of IDPs' questions and concerns, the Ministry reports that «the persistent rows [of IDPs] existing before on the staircases of the Ministry» have disappeared as IDPs now have a dedicated place, in the reception centres, to obtain the information they require «the number of questions and claims addressed to the IDP department and other staff of the ministry considerably decreased»<sup>186</sup>.

184 This according to Ministry statistics cited in Mooney, «From Solidarity to Solutions,» p. 205.

185 World Bank, *Georgia: Transitioning from Status to Needs Based Assistance for IDPs: A Poverty and Social Impact Analysis*, Report No. ACS16557 (February 2016), para. 31.

186 «Reception Center for Citizens» tab on Ministry website, accessed in October 2016: <http://mra.gov.ge/eng/static/125>.

Staff of the IDP hotline and of the Reception Centre received specialized training, both on the substantive content of the various different government programs available to IDPs and, just as importantly, on so-called «soft skills» to ensure that IDPs' contacting them are treated with dignity and respect. In order to ensure that these Ministry staff, who are very much on the «front-line» of responding to individual IDPs' questions and concerns, have up to date knowledge on government policies and programs for IDPs, such training continues on an ongoing basis. In 2016, an advanced training program for these staff was developed and is being implemented, consisting of 11-modules and 2 training of trainers (ToT) workshop, covering various topics including the IDP Law, the State Strategy and Action Plan for IDPs, IDP allowances, the durable housing solutions program for IDPs, the scoring system for eligibility for targeted social assistance, and communication skills. Trainers included senior officials from the Ministry for IDPs as well as from the Ministry of Labour, Health and Social Affairs. As the Ministry for IDPs explains, the underlying concept is «training for the provision of customer service», that is to improve the quality of information and service provided by the Ministry to IDPs<sup>187</sup>.

**Website:** Complementing the hotline and reception centre, and providing more detailed information, a comprehensive Ministry website also was created, with support from USAID. The website provides important information for IDPs (and for refugees and asylum-seekers, who also are covered by the Ministry's mandate) on the laws, policies, and programs most relevant to their situation, as well as information about important opportunities (e.g. scholarships for IDPs) offered by universities and other non-governmental actors. Moreover, the website includes a direct «web chat» function via which individuals can communicate directly about their query or concern with the Ministry<sup>188</sup>.

In 2010, the Public Defender, while highlighting the importance of the hotline and website, noting: «[t]hrough these tools, IDPs are able to obtain necessary information and/or consultation during 24-hours,» also pointed out the need to improve information to IDPs on specific issues, such as plans for evictions of IDPs' from unofficial collective centres and the guarantees that must be met for any evictions of IDPs to be considered lawful under national and international law<sup>189</sup>. By 2016, the Public Defender reported

187 «IDP Staff trained in leading practices,» available at: <http://www.humandynamics.org/en/news/hotline-staff-trained>.

188 The website of the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees [which previously was known as the Ministry for Refugees and Accommodation (MRA)] is available at: [www.mra.gov.ge](http://www.mra.gov.ge).

189 Public Defender of Georgia, *Report on the Human Rights Situation of Internally Displaced Persons*, 2010, p. 12.



a marked improvement in IDPs' access to information on housing issues. Even so, he continued to emphasize the ongoing need for the government: «To take specific measures in order to raise informational awareness regarding scheduled privatization and rehabilitation works as well as raise IDPs' awareness of their rights»<sup>190</sup>.

Overall, the hotline, the reception centres and the website established and maintained by the Ministry have gone a long way to improve IDPs' access to information about government laws, policies and programs available to them, as well as enhanced the level of service provided by the government to IDPs.

## PROMOTING SOLIDARITY with IDPs and SOCIAL COHESION

Key  
message

*Promoting solidarity with IDPs and social cohesion between IDPs and displacement-affected communities is tremendously important for IDPs' protection, enjoyment of their rights, their social and economic integration during displacement, and for facilitating safe and sustainable solutions to displacement. Government authorities at all levels have an essential role to play in this regard.*

In any country experiencing internal displacement, the government is expected, as a benchmark of effective national responsibility, to raise national awareness of the situation of internal displacement in a way that promotes national solidarity with the displaced. The *Framework for National Responsibility* explains that promoting solidarity is critically important for IDPs' protection. Pervasive stigmas «put IDPs at further risk, discourage them from making their needs known, augment their invisibility, and make reintegration difficult due to their increased marginalization». As to the modalities for counteracting these, the Framework further provides:

Efforts to raise national awareness should include sensitization campaigns that reach all relevant authorities, including the military and police, and also extend into the public sphere, so that national responsibility for addressing internal displacement becomes a concept embraced and implemented by all parts of society. Such campaigns will be most effective when they are developed with civil society and displaced communities<sup>191</sup>.

190 Public Defender of Georgia, *Report on the Human Rights Situation of Internally Displaced Persons and other Conflict-Affected Individuals in Georgia*, 2016, p. 25. See also pp. 4 and 14–15.

191 *Framework for National Responsibility*, pp. 13–14.

— Regional and local authorities in communities receiving IDPs have an especially important role to play in demonstrating solidarity with IDPs and facilitating IDPs’ integration and enjoyment of their rights. Indeed, the Congress of Local and Regional Authorities of the Council of Europe has emphasized the responsibility of local and regional authorities to ensure IDPs and refugees are able to access their full range of rights without discrimination and highlighted the instrumental role of these authorities in promoting social cohesion among communities<sup>192</sup>.

— In raising awareness of IDP issues, the emphasis must be on the humanitarian concerns of IDPs. Indeed, the Council of Europe Committee of Ministers has felt compelled to point out that «member states affected by internal displacement should refrain from instrumental use of displaced persons for political aims»<sup>193</sup>. The participation in the design and implementation of such awareness-raising efforts of civil society, the independent media, the Ombudsperson, and of course of IDPs themselves, can help to mitigate this risk and in any case is to be encouraged.

<i>EXAMPLE of Council of Europe state practice</i>	<b>Training the media on IDP issues</b>
<p>In <b>Georgia</b>, the IDP Project implemented by the Office of the Public Defender in Georgia with the support of the Council of Europe conducted training on IDP rights for journalists from both national and local media. The participating journalists came from a range of media forms (TV, radio, print) at the national or local level. Topics covered in the training included: international standards and rights of IDPs, the role and responsibilities of the state as well as of non-state actors, and the Strategy for IDPs, including both its challenges and achievements. The training also included practical tips on how to report on IDP issues in a way that demonstrated sensitivity to their plight and promoted respect of their rights<sup>194</sup>.</p>	

192 Council of Europe Congress of Local and Regional Authorities, Recommendation 147 (2004) on migration flows and social cohesion in South-East Europe: the role of local and regional authorities, 2004.

193 Council of Europe CoM, Recommendation on IDPs, Preamble.

194 Council of Europe, «Georgian IDP Project supported by the Council of Europe to conduct the Training for Georgian Journalists on the Rights of Internally Displaced Persons, 26–27 October 2012», at: [http://www.coe.int/t/democracy/migration/Projects/georgia\\_idps\\_project\\_en.asp](http://www.coe.int/t/democracy/migration/Projects/georgia_idps_project_en.asp)

*EXAMPLE of  
Council of Europe  
state practice*

### «Open Cities» for IDP and refugee return

In **Bosnia and Herzegovina**, the 1992–1995 conflict forced from their homes over 2 million people, amounting to almost half of the country's population. The right of IDPs and refugees to return in safety and dignity was enshrined in the Dayton Peace Agreement of December 1995. In practice, however, this principle proved very challenging to realise, and in particular for the hundreds of thousands of displaced persons for whom return would mean going back to an area where they constituted an ethnic minority and faced the threat of ethnically based discrimination, harassment, and even physical attack.

In 1997, UNHCR launched the «Open Cities» initiative aimed at encouraging cities and municipalities to publicly declare their willingness to facilitate the return of IDPs and refugees from minority groups. Where such willingness was demonstrated in fact, the city would be rewarded with increased international reconstruction assistance. For a city or municipality to be recognized as an «open city», it required a «genuine commitment» by local authorities to allow minority returns, confirmation that minority returns are occurring without any abuse of these minorities» and «confirmation that local authorities are genuinely committed to consistent and equal support for all members of the population». More specifically, local authorities were expected to meet a number of criteria, including: a demonstrated willingness to reintegrate minorities into the normal life of the community; equal rights and opportunities for employment, education and appointment to public office; freedom of movement, including encouraging assessment visits by minorities; respect for human rights (to be monitored carefully by international organisations on the ground) to avoid abuses, discrimination, criminality, restrictions to freedom of movement and security incidents indicating a lack of equal opportunity for minorities; the demonstrated impartiality and involvement of the local police; encouragement of integration of returnees into the local police force; confirmation that local authorities are genuinely committed to the removal of mines; and a positive use of the media to prepare the resident community for the return of minorities, to invite minorities to return, and to promote reconciliation.

By the end of 1999, UNHCR had recognized fifteen «Open Cities», to which 20,000 minority returns had taken place. These designated «Open Cities»

were found throughout the country, including in both Entities: 11 in the Federation of BiH and 4 in *Republika Srpska*. One city, Vogosca, had been recognized as an «Open City» but subsequently had this designation revoked due to a lack of sustained commitment to minority return and a failure to uphold the agreed commitments and criteria.

The initiative, UNHCR acknowledges, was not without «certain limitations». A UNHCR protection officer working in BiH at the time has elaborated: «authorities in many of the recognised Open Cities made only cosmetic changes, did not remove fundamental causes of displacement and did not genuinely invite former residents to return»<sup>195</sup>. Indeed, an independent assessment found:»[o]pen cities were by no means immune to the blockages to minority return prevailing elsewhere in Bosnia, such as lack of employment and educational opportunities for minority returnees, security fears, and double occupancy. Nevertheless, the international community enjoyed stronger leverage in open cities, and municipal cooperation was generally higher»<sup>196</sup>.

Certainly, there are lessons to be learned from the «Open Cities» experiment, including the need to manage expectations about what a single international initiative can do to overcome deep-seated, often officially sanctioned, ethnic divisions and obstacles to IDP and refugee return as well as of the need to safeguard such initiatives from becoming instruments of political conditionality of aid. Even so, the «Open Cities» initiative did have a number of attributes worth replicating including: working directly with municipal authorities and communities, identifying communities where there were indications of readiness to allow displaced persons to return, delineating criteria and actionable steps for the authorities for facilitating safe returns, and identifying champions as well as creating, community by community, a forward momentum for upholding rights that required country-wide operationalization<sup>197</sup>.

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195 UNHCR June 1999, p. 332, cited in IDMC, *Profile of Internal Displacement: Bosnia and Herzegovina* (31 January 2003); Ayaki Ito, «Return to Prijedor: Politics and UNHCR», *Forced Migration Review*, Issue 10, p. 36.

196 United States Committee for Refugees and Immigrants, *U. S. Committee for Refugees World Refugee Survey 2000 – Bosnia and Herzegovina*, 1 June 2000.

197 Personal view of author, though informed by over twenty years of professional engagement on displacement issues in BiH, both as a field practitioner and researcher focused on displacement issues, including in recent years (2008 and 2010–11) in BiH specifically focused on supporting durable solutions to displacement.

<p><i>EXAMPLE of Council of Europe state practice</i></p>	<p><b>«Cities of Solidarity» hosting IDPs</b></p>
<p>In <b>Ukraine</b>, the «Cities of Solidarity» initiative calls to mind the «Open Cities» experiment in Bosnia and Herzegovina, with the difference that in this case, instead of focusing on cities of IDP and refugee return, it concerns cities hosting IDPs during their displacement. It therefore is a means of promoting positive responses at the municipal level to IDPs’ temporary, and potentially, long-term integration. Launched in July 2016 by UNHCR with the municipality of Mariupol, this initiative plans to expand to other cities that demonstrate solidarity with IDPs according to defined criteria. This includes, inter alia, designating a focal point within the municipal administration and developing a municipal action plan for supporting IDPs’ integration into the community, in collaboration with a broad range of stakeholders<sup>198</sup>.</p>	

198 UNHCR «Towards a Cities of Solidarity Initiative in Ukraine,» Press Release, 20 July 2016, available at: <http://unhcr.org.ua/en/2011-08-26-06-58-56/news-archive/2-uncategorised/1603-citiesofsolidarity>.

# ANNEX I:

## FURTHER KEY GUIDANCE

**Addressing Internal Displacement: A Framework for National Responsibility** by Erin Mooney (Brookings Institution–University of Bern Project on Internal Displacement 2005). Available, in 12 languages including French, Spanish and Russian, at: <https://www.brookings.edu/research/addressing-internal-displacement-a-framework-for-national-responsibility/>

**Baseline analysis «Enhancing the national legal framework in Ukraine for protecting the human rights of internally displaced persons»** (Council of Europe Project «Strengthening the Human Rights Protection of Internally Displaced Persons in Ukraine», June 2016). Available at: <https://rm.coe.int/16806a49d7>

Council of Europe, Committee of Ministers, **Recommendation Rec(2006)6 of the Committee of Ministers to member States on internally displaced persons**, adopted on 5 April 2006. Available at: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016805d8265](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805d8265) [also reproduced in Annex I of this publication].

Council of Europe, Committee of Ministers, Ad hoc Committee of Experts on the Legal Aspects of Territorial Asylum, Refugees and Stateless Persons (CAHAR), **Explanatory Memorandum of Recommendation (2006)6 of the Committee of Ministers to member States on internally displaced persons**, adopted 5 April 2006. Available at: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016805d8728](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805d8728)

**From Responsibility to Response: Assessing National Responses to Internal Displacement** by Elizabeth Ferris, Erin Mooney and Chareen Stark (Brookings Institution – LSE Project on Internal Displacement, 2011). Available at: <https://www.brookings.edu/multi-chapter-report/from-responsibility-to-response-assessing-national-approaches-to-internal-displacement/>

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## **ANNEX II:**

### **SELECTION OF COUNCIL OF EUROPE STANDARDS RELEVANT TO RIGHTS OF IDPS**

#### **Council of Europe Committee of Ministers Recommendation on internally displaced persons**

*Recommendation Rec(2006)6 of the Committee of Ministers to member states on internally displaced persons (Adopted by the Committee of Ministers on 5 April 2006 at the 961st meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Recalling that one of the core objectives of the Council of Europe is to preserve and to promote human rights to the benefit of everyone in Europe;

Considering that a large number of citizens of the Council of Europe member states can not fully benefit from their human rights as a consequence of the fact that they have been forced or obliged to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or man-made disasters, without crossing an internationally recognised state border;

Recalling the existence of the United Nations Guiding Principles on Internal Displacement (hereinafter the «UN guiding principles»), which address all phases of internal displacement and which have gained international recognition and authority;

Stressing its commitment to the spirit and provisions of the United Nations guiding principles and its willingness to implement them in the member states' national legislation and policy;

Anxious to promote the United Nations guiding principles in a European context and to develop some of these principles further on the basis of the existing standards of the Council of Europe;

Recognising that internally displaced persons have specific needs by virtue of their displacement;

Bearing in mind that, while internally displaced persons, despite being displaced, remain citizens of their country entitled to the full



enjoyment of human rights and guarantees of international humanitarian law, international law does not provide for any specific binding instrument defining their rights;

Considering that the national authorities of the member states on the territory of which internal displacement is taking place are primarily responsible for the protection and assistance of the internally displaced persons, notwithstanding the rights and obligations of other states or appropriate international organisations under international law;

Affirming that member states affected by internal displacement should refrain from instrumental use of displaced persons for political aims;

Recalling that the arbitrary displacement of persons from their homes or place of habitual residence is prohibited, as can be inferred from the European Convention on Human Rights, which is an integral part of member states' domestic law;

Aware that mismanagement of internal displacement may not only lead to human rights violations but also feed into international migration and refugee movements across the continent;

Considering that neither this recommendation nor the United Nations guiding principles should prevent Council of Europe member states from introducing or maintaining more favourable standards for internally displaced persons,

Recommends that governments of member states be guided, when formulating their internal legislation and practice, and when faced with internal displacement, by the following principles:

1. The United Nations guiding principles and other relevant international instruments of human rights or humanitarian law apply to all internally displaced persons, including persons displaced from their homes or places of habitual residence due to natural or man-made disasters;

2. Internally displaced persons shall not be discriminated against because of their displacement. Member states should take adequate and effective measures to ensure equal treatment among internally displaced persons and between them and other citizens. This may entail the obligation to consider specific treatment tailored to meet internally displaced persons' needs;

3. Particular attention shall be paid to the protection of persons belonging to national minorities and to the protection and assistance requirements of the most vulnerable groups in accordance with relevant international law standards;

4. Protecting internally displaced persons and their rights as well as providing humanitarian assistance to them is a primary responsibility of the state concerned;

Such responsibility entails requesting aid from other states or international organisations if the state concerned is not in a position to provide protection and assistance to its internally displaced persons;

This responsibility also entails not to arbitrarily refuse offers from other states or international organisations to provide such aid;

5. Member states shall, in accordance with their obligations under Articles 2, 3 and 5 of the European Convention on Human Rights, take appropriate measures, on the one hand, to prevent acts that may violate internally displaced persons' right to life, to physical integrity and to liberty and security and, on the other, to effectively investigate alleged violations of these rights. This is of particular relevance in the organisation and maintenance of camps for internally displaced persons: in this regard, appropriate measures include those safeguarding the civilian nature of camps;

Internally displaced persons shall not be sent back to areas where they would face a real risk of being subjected to treatment contrary to Articles 2 and 3 of the European Convention on Human Rights;

6. Member states shall, in accordance with Article 8 of the European Convention on Human Rights, take appropriate measures to facilitate the reunification of families which are separated by internal displacement. Such measures may include locating missing family members, notably those that have been taken hostage. Competent authorities should convey to relatives of an internally displaced person, upon their request, any information they may have on his/her whereabouts;

7. Internally displaced persons shall be provided with all documents necessary for the effective exercise of their rights as soon as possible following their displacement and without unreasonable conditions being imposed;

8. Internally displaced persons are entitled to the enjoyment of their property and possessions in accordance with human rights law.

In particular, internally displaced persons have the right to repossess the property left behind following their displacement. If internally displaced persons are deprived of their property, such deprivation should give rise to adequate compensation;

9. Member states should take appropriate legal and practical measures to enable internally displaced persons to effectively exercise their right to vote in national, regional or local elections and to ensure that this right is not infringed by obstacles of a practical nature;

10. With a view to limiting the adverse consequences of internal displacement, member states should develop preventive measures such as strategic action plans, to be implemented in the event of crises which could lead to internal displacement;

11. Internally displaced persons should be properly informed, but also consulted to the extent possible, in respect of any decision affecting their situation prior to, during or after their displacement;

12. Internally displaced persons have the right to return voluntarily, in safety and in dignity, to their homes or places of habitual residence, or to resettle in another part of the country in accordance with the European Convention on Human Rights;

Conditions for proper and sustainable integration of internally displaced persons following their displacement should be ensured;

13. In order to address existing gaps in international law as far as the treatment of internally displaced persons is concerned, member states should consider the elaboration of additional international instruments.

### **Europe's Forgotten People: Protecting the Human rights of long-term displaced persons**

Recommendation 1877 (2009)

*Europe's forgotten people: protecting the human rights of long-term displaced persons*

*The Parliamentary Assembly of the Council of Europe (PACE)*

1. The Parliamentary Assembly has regularly expressed concern over the unresolved situation of internally displaced persons (IDPs) scattered over 11 of the 47 member states of the Council of Europe.

It has consistently called on governments to seek durable solutions for the return, local integration or integration elsewhere in the home countries of displaced persons and to guarantee the protection of their rights under the provisions of relevant Council of Europe instruments and in line with the United Nations Guiding Principles on Internal Displacement (hereinafter «UN Guiding Principles»).

2. The Assembly welcomes the work the Committee of Ministers has previously undertaken in elaborating a set of 13 recommendations on IDPs (Committee of Ministers Recommendation Rec(2006)6 on internally displaced persons), which builds on the UN Guiding Principles and underlines the binding obligations undertaken by member states. It regrets, however, that since the adoption of the Committee of Ministers' recommendation, the process for finding durable solutions has stalled once again and the marginalisation of the displaced populations in Europe has on the whole deepened.

3. The Assembly continues to be deeply concerned by the estimated 2.5 to 2.8 million IDPs who remain displaced in Council of Europe member states. Approximately 99% of those displaced fled their homes as many as fifteen to thirty-five years ago as a result of conflicts arising from many and varied causes. It regrets that only about a quarter of all IDPs from previous decades have found a durable solution to their displacement, and most of them have settled elsewhere than their places of origin.

4. The Assembly deplores the fact that the majority of displaced persons continue to live in destitution, struggle to enjoy their rights and are marginalised by disregard or failure to protect their human rights, in particular economic, social and cultural rights. Many categories of IDPs are particularly vulnerable, dependent on state aid and in need of targeted assistance. Some 390 000 IDPs in Europe still live in collective centres, makeshift shelters or informal settlements without security of tenure and often without access to basic services such as water, electricity or sewage systems. The persistence of inadequate housing and living conditions after so many years reinforces their social marginalisation.

5. The Assembly has repeatedly urged the governments of the Council of Europe member states to implement relevant normative frameworks provided by the UN Guiding Principles and Committee of Ministers Recommendation Rec(2006)6. It regrets in this respect that

only a few of the member states concerned have made progress in bringing IDP legislation in line with the provisions of the UN Guiding Principles and the Committee of Ministers' recommendation.

6. The Assembly is convinced that the key to ensuring full enjoyment of human rights by long-term displaced persons in Europe lies in combined and reinvigorated efforts by the local, national and international actors in terms of finding political solutions to protracted conflicts, improved legal and normative frameworks and increased will and capacity of all relevant actors to implement such frameworks.

7. Real solutions are difficult to achieve for IDPs as long as the underlying causes of displacement such as protracted conflicts and ethnic divisions are not addressed. Some member state governments still do not exercise effective control over their entire territory because of the lack of resolution of conflicts. The stalled peace negotiations, or even backtracking from the existing peacekeeping and peace-building mechanisms, absence of organised reconciliation mechanisms and continued insecurity limit IDPs' access to their rights and obstruct their return.

8. The Assembly underlines that in the absence of political settlements, the temporary or long-term integration of IDPs in their current place of residence should be encouraged. Local integration through providing basic – even if temporary – conditions that enable displaced persons to lead a normal life due to equal and full access to adequate living conditions, livelihoods, education and basic services, is not incompatible with return. The Assembly welcomes the recent policy shifts in Azerbaijan and Georgia in this regard.

9. The right of IDPs to make a voluntary and informed choice between three options: return to their homes, local integration at the site of displacement, or settlement in another, safe, part of the country, must be respected.

10. IDPs' right to return under international humanitarian law, as well as under the freedom of movement deriving from international and regional human rights law, must be unconditionally observed and ensured by all responsible authorities. Transitional justice measures have to be established to address wrongs suffered (including arbitrary displacement) and perpetrators of international crimes must be brought to justice.

11. The Assembly recognises the need for continued international assistance to IDPs in terms of financial aid and technical assistance in order to avoid their becoming Europe's «forgotten people». This is particularly important in the context of the current global economic crisis.

12. The Assembly warns that neglecting the interests of IDPs carries a real political risk that the frozen conflicts associated with them can re-ignite at any time. The war between Georgia and Russia last year was a sinister reminder that continued international indifference to long-term displacement situations can contribute to renewed conflict, significant loss of life and the displacement of many more people from their homelands.

13. The need for a genuine international peacekeeping force in places where violence and prejudice against local communities and IDPs cannot be curbed by local means should also remain a top priority of the international community.

14. It is also crucial for all communities concerned to address the deep-rooted patterns of discrimination against members of ethnic minorities, which seriously undermine sustainable returns.

15. In light of the above, the Assembly recommends that the Committee of Ministers:

15.1. as regards durable political solutions:

15.1.1. seek new political impetus for finding peaceful settlement of the protracted conflicts in Europe with a view to guaranteeing durable solutions, including the voluntary and informed return of displaced persons to their places of origin under international humanitarian law, the requirements of the Helsinki Final Act and commitments to the Council of Europe;

15.1.2. urge all member states of the Council of Europe to uphold the international law principles of state sovereignty and territorial integrity of member states;

15.1.3. work on political, technical and financial issues related to the establishment of the peacekeeping missions necessary for the protection, dignified return and integration of IDPs;

15.2. as regards observance of international protection standards:

15.2.1. urge the member states to rigorously observe the UN Guiding Principles and Committee of Ministers Recommendation

Rec(2006)6 and to include, where relevant, the UN Guiding Principles in national legislation, if this has not already been done;

15.2.2. establish a new permanent committee within the Council of Europe with a mandate to examine asylum and displacement issues to replace the ad hoc Committee of Experts on the Legal Aspects of Territorial Asylum, Refugees and Stateless Persons (CAHAR), and to task it with examining possible legal gaps in international and national law with a view to elaborating additional binding international instruments, as proposed in Committee of Ministers Recommendation Rec(2006)6, studying the implementation mechanisms of legal frameworks applicable to IDPs, and working out concrete benchmarks for durable solutions in each country concerned;

15.2.3. raise awareness of the rights and existing protection mechanisms under the European Convention on Human Rights (ETS No. 5), the revised European Social Charter (ETS No. 163) and its collective complaint mechanism, the European Commission against Racism and Intolerance (ECRI) and the Framework Convention for the Protection of National Minorities (FCNM, ETS No. 157) in terms of their application to IDPs;

15.3. as regards the protection of rights of IDPs, to call upon relevant member states to work out, together with IDPs, durable solutions, and, in particular:

15.3.1. review, enact and implement national strategies and action plans by setting out a clear legal and institutional framework assuring effective protection of IDPs and addressing their specific vulnerabilities, and revise and amend existing laws in order to remove all legal impediments for integration of the IDPs;

15.3.2. mobilise and empower IDPs as actors of their own protection;

15.3.3. fully respect the voluntary nature of return, integration or settlement;

15.3.4. ensure the safety and security of IDPs, particularly at locations of return, and, in particular, where landmines and unexploded ordnance remain;

15.3.5. pursue the process of reconciliation more vigorously, especially in the areas of return or settlement of IDPs, by fostering a political

and cultural climate of respect, tolerance and non-discrimination and by investigating and bringing to justice perpetrators of crimes against humanity, war crimes and inter-ethnic violence;

15.3.6. restitute property or occupancy/tenancy rights and/or provide prompt, effective and fair compensation where restitution is not possible, and repair or rebuild restituted houses or construct alternative adequate accommodation;

15.3.7. provide IDPs with full access to rights, legal documentation and free legal assistance;

15.3.8. make income-generating activities available to IDPs to facilitate their social and economic reintegration and, in particular, to ensure full and non-discriminatory access to jobs offered by private or public employers; to develop social welfare systems that can benefit IDPs in need of assistance, in particular social housing schemes; where relevant, to transfer social security and pension rights;

15.3.9. guarantee living conditions and access to basic needs according to relevant standards;

15.3.10. find adequate solutions for the most vulnerable groups of people who are still accommodated in collective centres, tented camps or other makeshift accommodation;

15.3.11. ensure that displaced children attend school together with non-displaced children to the extent possible, and that they receive quality education without financial barriers;

15.3.12. ensure that IDPs can exercise their right to participate in public affairs at all levels, including their right to vote or stand for election, which may require special measures such as IDP voter registration drives, or absentee ballots;

15.3.13. monitor the sustainability of durable solutions for IDPs as well as their living conditions, in particular with regard to adequate housing;

15.3.14. ensure that IDPs and returnees have full, free and uninterrupted access to humanitarian assistance; such access should not be blocked or hindered by states because of political considerations;

15.3.15. share experiences and good practices on achieving durable solutions for IDPs;



15.4. as regards Council of Europe activities concerning IDPs in Europe, bring together representatives of IDPs from across Europe in order for them to share and learn from their different experiences;

15.5. with a view to strengthening political and economic stability in the member states concerned, invite the governments of all member states of the Council of Europe to:

15.5.1. continue to support the process of voluntary return, local integration and integration elsewhere in the country of IDPs with financial assistance, technical know-how and expertise;

15.5.2. make voluntary contributions for the specific programmes of the Council of Europe which aim to strengthen the protection of human rights, the rule of law and democracy in the countries significantly affected by displacement;

15.5.3. continue to support national, regional and international human rights institutions operating in the member states concerned in their capacity to encourage governments to address the limited access of IDPs to their rights.

16. The Assembly further recommends that the Committee of Ministers call upon the European Union to:

16.1. pay increased attention to the issues related to finding durable solutions to the situation of IDPs and their human rights concerns within the framework of its European Neighbourhood Programme (ENP) as well as its new Eastern Partnership programme;

16.2. increase the role of the European Security and Defence Policy (ESDP) peacekeeping missions in potential conflict zones;

16.3. maintain the political momentum in the relevant non-European Union member states with a clear European integration perspective; assess improvement of the situation of IDPs, in particular progress with regard to the conditions for durable solutions, within their possible accession processes;

16.4. continue to support the process of voluntary return, local integration or integration elsewhere in the country with financial assistance and expertise;

16.5. contribute financially to the specific joint programmes with the Council of Europe aiming to strengthen the protection of human

rights of IDPs in Europe, in particular those of the most vulnerable groups, and to enhance the awareness and capacity of local actors dealing with IDP issues.

17. The Assembly invites the Congress of Local and Regional Authorities of the Council of Europe to look into the issue of effective means for augmenting the awareness and capacity of local authorities as regards the complexities of integration of IDPs in places of displacement, their specific needs and particular vulnerabilities.

18. The Assembly encourages the Council of Europe Commissioner for Human Rights to bring together national human rights institutions and ombudspersons from the regions that currently have long-term IDPs in order to assess the progress made in accomplishing various Council of Europe recommendations on protecting IDPs' rights and identify the remaining obstacles for securing durable solutions, and issue a position paper on the subject matter.

19. The Assembly calls on the Council of Europe Development Bank to step up its co-operation with the member states concerned with a view to financing more projects regarding returning refugees and IDPs.

20. The Assembly recognises the need to give more comprehensive follow-up to progress made on the above issues through its country-by-country monitoring mechanism and «regional» or issue-based reports by its Committee on Migration, Refugees and Population.

### **Solving Property Issues of Refugees and Internally Displaced Persons**

Resolution 1708 (2010)

*Solving property issues of refugees and internally displaced persons*

*The Parliamentary Assembly of the Council of Europe (PACE)*

1. The displacement of millions of people worldwide is one of the key human rights and humanitarian challenges of our time. For both refugees and internally displaced persons (IDPs) the loss of housing, land and property is the foremost challenge to the achievement of durable solutions to displacement.

2. As many as 2.5 million refugees and IDPs face this situation in Council of Europe member states, particularly in the North and South Caucasus, the Balkans and the eastern Mediterranean. Displacement in

Europe is often protracted, with affected persons unable to return to or access their homes and land since the 1990s and earlier.

3. The destruction, occupation and confiscation of abandoned property violate the rights of the individuals concerned, perpetuate displacement and complicate reconciliation and peace-building. Therefore, the restitution of property – that is, the restoration of rights and physical possession in favour of displaced former residents – or compensation, are forms of redress necessary for restoring the rights of the individual and the rule of law.

4. The Parliamentary Assembly considers that restitution is the optimal response to the loss of access and rights to housing, land and property because, alone among forms of redress, it facilitates choice between three «durable solutions» to displacement: return to one's original home in safety and dignity; local integration at the site of displacement; or resettlement either at some other site within the country of origin or outside its borders.

5. The Assembly recalls that Council of Europe instruments include several guarantees, notably Articles 6, 8, 13 and 14 of the European Convention on Human Rights (ETS No. 5), Article 1 of its Protocol No. 1 and Article 2 of its Protocol No. 4, Article 31 of the revised European Social Charter (ETS No. 163) and Article 16 of the Framework Convention for the Protection of National Minorities (ETS No. 157).

6. The Assembly also draws attention to the United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons (the Pinheiro Principles) designed to provide guidance on how to address issues on redress for loss of property.

7. The Assembly refers to Recommendation Rec(2006)6 of the Committee of Ministers on internally displaced persons, which confirms the rights of IDPs to the enjoyment of their property and possessions and to repossess property left behind, failing which they should be provided with adequate compensation.

8. The Assembly emphasises that all member states must refrain from and prevent arbitrary displacement and dispossession and provide effective domestic remedies and redress where they fail to do so.

9. In the light of the above, the Assembly calls on member states to resolve post-conflict housing, land and property rights issues of refu-

gees and IDPs, taking into account the Pinheiro Principles, the relevant Council of Europe instruments and Recommendation Rec(2006)6 of the Committee of Ministers.

10. Bearing in mind these relevant international standards and the experience of property restitution and compensation programmes carried out in Europe to date, member states are invited to:

10.1. guarantee timely and effective redress for the loss of access and rights to housing, land and property abandoned by refugees and IDPs without regard to pending negotiations concerning the resolution of armed conflicts or the status of a particular territory;

10.2. ensure that such redress takes the form of restitution in the form of confirmation of the legal rights of refugees and displaced persons to their property and restoration of their safe physical access to, and possession of, such property. Where restitution is not possible, adequate compensation must be provided, through the confirmation of prior legal rights to property and the provision of money or goods having a reasonable relationship to their market value, or other forms of just reparation;

10.3. ensure that refugees and displaced persons who did not have formally recognised rights prior to their displacement, but whose enjoyment of their property was treated as *de facto* valid by the authorities, are accorded equal and effective access to legal remedies and redress for their dispossession. This is particularly important where the affected persons are socially vulnerable or belong to minority groups;

10.4. ensure that previous occupancy and tenancy rights with regard to public or social accommodation or other analogous forms of home ownership which existed in former communist systems are recognised and protected as homes in the sense of Article 8 of the European Convention on Human Rights and as possessions in the sense of Article 1 of Protocol No. 1 to that convention;

10.5. ensure that the absence from their accommodation of holders of occupancy and tenancy rights who have been forced to abandon their homes shall be deemed justified until the conditions that allow for voluntary return in safety and dignity have been restored;

10.6. provide rapid, accessible and effective procedures for claiming redress. Where displacement and dispossession have taken place

in a systematic manner, special adjudicatory bodies should be set up to assess claims. Such bodies should apply expedited procedures that incorporate relaxed evidentiary standards and facilitated procedure. All property types relevant to the residential and livelihood needs of displaced persons should be within their jurisdiction, including homes, agricultural land and business properties;

10.7. secure the independence, impartiality and expertise of adjudicatory bodies, including through appropriate rules on their composition that may provide for the inclusion of international members. Sufficient funding must be provided to such bodies and relevant law-enforcement bodies must be legally bound to enforce their decisions;

10.8. ensure the effectiveness of redress through restitution of, or, where necessary, compensation for the value of abandoned property by adopting the following measures:

10.8.1. compensation for non-pecuniary damage related to the circumstances in which displacement and dispossession occurred and were perpetuated;

10.8.2. compensation for damage suffered as a result of displacement and lack of access to abandoned properties, such as loss of income and costs that would not have been incurred had they not been forced to leave;

10.8.3. compensation for wrongful destruction or damage to immovable property or loss of significant moveable property attributable to acts or omissions on the part of the authorities in whose jurisdiction the property is located;

10.8.4. assistance and reintegration measures to facilitate durable solutions, such as the establishment of conditions of security, reconstruction of homes and infrastructure at return sites, and social and economic support to all displaced persons, regardless of whether or not they choose to return to their homes of origin;

10.8.5. public acknowledgment of any responsibility for displacement-related human rights violations by the competent authorities, full investigation and disclosure of such violations and for which individual perpetrators should be held to account;

10.9. ensure, where relevant, that effective remedies and redress for loss of access and rights to property are integrated into broader reparation programmes for recurrent human rights violations.

11. Member states directly affected by property claims related to displacement are:

11.1. invited to seek technical assistance from and co-operate with other member states as well as with international organisations with relevant legal and technical expertise;

11.2. encouraged to work with academic and civil society actors, as well as national human rights institutions, to generate reliable information on the number and nature of property claims, formulate proposals for procedures to address such claims, monitor their implementation, identify obstacles and measures to address them, and disseminate information and legal advice to persons affected;

11.3. encouraged to consult directly with displaced persons and include them in the design and implementation of procedures and redress for property loss. Information on such procedures, including deadlines or other conditions for lodging claims, must be made available to all affected persons in a language they understand. It is of particular importance that such participatory processes seek out and take into account the views of vulnerable groups, such as female heads of household and minority groups, while respecting the security and right to privacy of all affected persons.

12. The United Nations High Commissioner for Refugees (UNHCR) and the Organization for Security and Co-operation in Europe (OSCE) are commended for highlighting displacement-related property issues in Europe within their respective mandates and are encouraged to continue and broaden their efforts to ensure the resolution of such property issues at national level.

**ПОСИЛЕННЯ НАЦІОНАЛЬНОГО РЕАГУВАННЯ  
НА ВНУТРІШНЄ ПЕРЕМІЩЕННЯ:**

**КЕРІВНИЦТВО З УСПІШНИХ ПРАКТИК  
В ДЕРЖАВАХ – ЧЛЕНАХ РАДИ ЄВРОПИ**

Ерін Муні

Проект Ради Європи  
«Посилення захисту прав людини  
внутрішньо переміщених осіб в Україні»  
в межах Плану дій Ради Європи для України  
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та Національного юридичного університету імені Ярослава Мудрого  
Україна, 61002, Харків, вул. Чернишевська, 80а  
Тел./факс (057) 716-45-53  
Сайт: [www.pravo-izdat.com.ua](http://www.pravo-izdat.com.ua)  
E-mail для авторів: [verstka@pravo-izdat.com.ua](mailto:verstka@pravo-izdat.com.ua)  
E-mail для замовлень: [sales@pravo-izdat.com.ua](mailto:sales@pravo-izdat.com.ua)

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Тел. (057) 758-35-98