

CDDH comments on the Parliamentary Assembly Recommendation 2126(2018) “Humanitarian needs and rights of internally displaced persons in Europe”

89th meeting - 19–22 June 2018 - CDDH(2018)R89

1. The Steering Committee for Human Rights (CDDH) takes note of Parliamentary Assembly Recommendation 2126(2018) – *“Humanitarian needs and rights of internally displaced persons in Europe”*.
2. The CDDH recalls that the European Court of Human Rights has recognised that the arbitrary displacement of persons from their habitual place of residence is in breach of the European Convention on Human Rights, and that it is crucial to guarantee their human rights¹ and to execute judgments regarding them.
3. The 11th Annual Report of the Committee of Ministers on the supervision of execution of judgments and decisions of the Court² mentions a number of pending cases concerning internally displaced people. These cases reveal important and complex structural problems, related, for many of them, to situations in post-conflict regions, demanding time and efforts in many respects. In this context, the recent Copenhagen Declaration³ has strongly encouraged the Committee of Ministers to continue to use all the tools at its disposal when performing the important task of supervising the execution of judgments, including the procedures under Article 46 (3) and (4) of the Convention, keeping in mind that it was foreseen that these procedures would be used sparingly and in exceptional circumstances respectively.⁴

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Text of Recommendation 2126(2018)

Humanitarian needs and rights of internally displaced persons in Europe Parliamentary Assembly

1. Recalling Committee of Ministers Recommendation Rec(2006)6 on internally displaced persons and the judgments of the European Court of Human Rights concerning the human rights of internally displaced persons (IDPs), the Parliamentary Assembly refers to its [Resolution 2214 \(2018\)](#) on the humanitarian needs and rights of internally displaced persons in Europe and recommends that the Committee of Ministers ensure that these judgments of the Court be executed as a matter of priority and urgency, using Article 46.4 of the European Convention on Human Rights (ETS No. 5) in cases where a respondent State refuses to execute a judgment.
2. The Assembly recommends that the Committee of Ministers step up its efforts and tangible actions to ensure that all respondent States abide by the decisions of the European Court of

¹ In particular the right to life, the prohibition of torture, the right to liberty and security, the right to respect for private and family life and the protection of property (Articles 2, 3, 5 and 8 of the Convention and Article 1 of Protocol No. 1). Recommendation Rec(2006)6 of the Committee of Ministers to member States on internally displaced persons recalls 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”.

² https://rm.coe.int/annual-report-2017/16807af92b_pp_194_228_and_245.

³ Adopted at the High-Level Conference meeting on 12 and 13 April 2018 at the initiative of the Danish Chairmanship of the Committee of Ministers.

⁴ See § 24 of the Declaration.

Human Rights regarding compensation awarded in respect of the denial of the enjoyment and ownership of IDPs' property and other non-pecuniary losses.

3. Recalling Articles 7 and 8.2.b.xiii of the Rome Statute of the International Criminal Court, the Assembly recommends that the Committee of Ministers ask the Committee of Legal Advisers on Public International Law (CAHDI) to establish, in accordance with Article 12 of the United Nations Convention on Jurisdictional Immunities of States and Their Property and the general principles of international law, guidelines for the recognition and enforcement by domestic courts in other member States of judgments of the European Court of Human Rights awarding financial compensation to IDPs, if a respondent State refuses to execute such a judgment.