

## RECOMMENDATION 1877 (2009)

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

#### Parliamentary Assembly

Origin - Assembly debate on 24 June 2009 (23rd Sitting) (see Doc. 11942, report of the Committee on Migration, Refugees and Population, rapporteur: Mr Greenway). Text adopted by the Assembly on 24 June 2009 (23rd Sitting).

- 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.