Parliamentary Assembly
Assemblée parlementaire
https://pace.coe.int

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 11942
08 June 2009

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

Report[1]
Committee on Migration, Refugees and Population
Rapporteur: Mr John GREENWAY, United Kingdom

Summary:

More than 2.5 million Europeans in 11 of the 47 member states of the Council of Europe continue to be deprived of their homes and possessions as the result of various conflicts lasting decades without resolution. These persons are internally displaced persons (IDPs), and most of them live in destitution, struggle to enjoy their rights and suffer marginalisation within their societies.

The report calls for reinvigorated efforts by the international community to find political solutions to the many unresolved conflicts and to build up strong legal and normative frameworks ensuring that IDPs can fully enjoy their human rights. The continued failure to tackle the root causes of displacement, impunity for past crimes and negligence of the interests of IDPs carry a serious political risk that the protracted conflicts may re-ignite, which may in turn lead to new displacements.

Relevant national and local authorities should pursue targeted and consistent policies that aim at improving the human rights and living conditions of IDPs and enable them to integrate – even if temporarily - in their places of displacement or elsewhere in the country, without prejudice to the ultimate possibility of their return. IDPs must be empowered to make voluntary and informed choices as regards their return or integration, provided access to effective procedures to reclaim property and possessions, provided with access to livelihoods and adequate living conditions, encouraged to participate in public affairs at all levels without discrimination and be involved in the decision-making processes on issues concerning them.

The report calls for continued international donor assistance to IDPs in terms of resources, technical expertise and knowledge sharing. It puts forward a number of concrete proposals to the Committee of Ministers, other bodies of the Council of Europe and the European Union in view of finding durable solutions for IDPs. It calls for improved observance of international protection standards and rights, and desired activities to tackle Europe's amnesia towards its "forgotten people".

1. Reference to committee: Doc. 11804, Reference No. 3523 of 30 January 2009.

Contents **Page**

A. Draft recommendation 3
B. Explanatory memorandum by Mr Greenway, rapporteur 7
1. Introduction 7
2. Key challenges for internal displacement in Europe today 8
3. Major human rights concerns for IDP 9
4. Available protection mechanisms 11
5. National responses 12
5.1. IDPs in South Caucasus (Armenia, Azerbaijan, Georgia) 13
5.2. IDPs in North Caucasus (Russia) 14
5.3. IDPs in the Balkans (Serbia, Kosovo, Croatia, ”the former Yugoslav Republic of Macedonia”, Bosnia and Herzegovina) 15
5.4. IDPs in Turkey 16
5.5. IDPs in Cyprus 17
6. International response: role of the Council of Europe in advancing protection of the human rights of IDPs 18
7. Future perspectives: ways forward 19
Appendix – Summary of the main issues discussed by the rapporteur during his visit to Armenia and Azerbaijan, 4 – 8 May 2009 21

A. Draft recommendation

1. The Parliamentary Assembly has regularly expressed concern over the unresolved situation of internally displaced persons (IDPs) scattered in 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 the displaced 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.

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), which builds on the United Nations Guiding Principles on Internal Displacement 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 even further stalled 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 2.5-2.8 million IDPs who remain displaced in the Council of Europe member states. 99% of those displaced fled their homes as many as 15 to 35 years ago as a result of conflicts arising from interethnic violence, rejected independence claims and territorial disputes. It regrets that only about a quarter of all IDPs of all these decades-long conflicts have found a durable solution to their displacement, and most of them have settled elsewhere than their places of origin.

4. The Assembly deplores that the majority of the displaced 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 the remaining IDPs are particularly vulnerable, dependant on state aid and in need of targeted assistance. Some 390,000 IDPs in Europe still live in collective centres, in 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 on Internal Displacement and Recommendation Rec(2006)6 of the Committee of Ministers on internally displaced persons. It regrets in this respect that only a few of the member states concerned have made progress in bringing IDP legislation into line with the provisions of the 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 international, national and local 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 roots 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 the conflicts on their territory. The stalled peace negotiations, absence of organised reconciliation mechanisms and continued insecurity limit IDPs' access to their rights and obstruct their return.

8. The Assembly underscores that in the absence of political settlements, temporary or long-term integration of IDPs at their current residence should be encouraged. Local integration through providing basic - even if temporary - conditions enabling the displaced to lead a normal life with 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 their right to return in the exercise of their 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 have to be brought to justice.

11. The Assembly recognises the need for continued international assistance to the IDPs in terms of financial aid and technical assistance in order to avoid that IDPs become 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 genuine international peacekeeping force in places where violence and prejudice against local communities and IDPs cannot be curbed by locally available 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 the Committee of Ministers:

15.1. as regards durable political solutions:

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

15.1.2. to 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. to work on political, technical and financial issues related to the establishment of the peace-keeping missions necessary for the protection, dignified return and integration of IDPs;

15.2. as regards observance of international protection standards:

15.2.1. to urge the member states to rigorously observe the UN Guiding Principles on Internal Displacement and Committee of Ministers Recommendation Rec(2006)06 and to include where relevant the Guiding Principles into national legislation, if this has not already been done;

15.2.2. to examine further the possible legal gaps in international law as far as the treatment of internally displaced persons is concerned with a view to elaborating additional binding international instruments as suggested in the Committee of Ministers' Recommendation Rec(2006)6; and to this end, reconvene the ad hoc Committee of Experts on the Legal Aspects of Territorial Asylum, Refugees and Stateless Persons (CAHAR) to examine this issue;

15.2.3. to raise awareness of the rights and existing protection mechanisms under the European Convention on Human Rights, the revised European Social Charter and its collective complaint mechanism, the European Commission against Racism and Intolerance (ECRI) and the Framework Convention for the Protection of National Minorities (FCNM) 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 the IDPs, durable solutions, including, in particular to:

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;

15.3.2. involve IDPs in all relevant steps leading to durable solutions regarding them;

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

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

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

15.3.10. ensure that displaced children are schooled together with non-displaced children to the extent possible, and that they receive quality education without financial barriers;

15.3.11. 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;

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

15.3.13. 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;

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

15.4. as regards Council of Europe activities concerning IDPs in Europe, to 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 of the IDPs in Europe;

15.5.3. continue to support both international, regional and national 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. maintain the political momentum in the relevant non-EU member states with a clear European integration perspective; to assess improvement of the situation of IDPs, in particular progress with regard to the conditions for durable solutions, within their possible accession processes;

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

16.4. 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 to look into the issue of effective means for augmenting 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 of Human Rights to bring together national human rights institutions and Ombudspersons from the regions with current 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 a 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.

B. Explanatory memorandum by Mr Greenway, rapporteur

1. Introduction

1. Over the years, the Parliamentary Assembly has put a considerable amount of effort into keeping the debate on the concerns of internally displaced persons (IDPs) on its agenda, notably through its Committee on Migration, Refugees and Population. It has adopted various recommendations and resolutions on general issues such as internal displacement in Europe[2] as well as on specific ones such as the humanitarian situation of the displaced populations in Turkey[3], Russian Federation and some other CIS countries[4], South-Eastern Europe[5] or the South Caucasus[6]. In the aftermath of the war between Russia and Georgia in August 2008, the Assembly has recently adopted two reports on "The humanitarian consequences of the war between Georgia and Russia"[7], raising not only the concerns of the newly displaced persons but also those of the "old" IDPs. A report on "Solving property issues of refugees and internally displaced persons" is also currently in preparation by the Committee on Migration, Refugees and Population.

2. The current report stems from the conclusions of a seminar on "Protracted displacement situations in Europe" organised by the Committee on Migration, Refugees and Population in cooperation with Mr Walter Kälin, Special Representative of the UN Secretary General on the Human Rights of Internally Displaced Persons (IDPs), on 25 November 2008 in Geneva. Much of the information presented in this report draws from the presentations and work carried out on the subject matter by various international humanitarian and development organisations participating in this seminar, such as the Office of the United Nations High Commissioner for Refugees (UNHCR), Office of the High Commissioner for Human Rights (OHCHR), International Committee of the Red Cross (ICRC), International Organization for Migration (IOM/ESD), Office for the Coordination of Humanitarian Affairs (OCHA/DPSS), United Nations Development Programme (UNDP) and Internal Displacement Monitoring Centre (IDMC). The rapporteur is grateful for these valuable inputs.

3. The rapporteur extends his particular gratitude to the Representative of the UN Secretary General on the Human Rights of Internally Displaced Persons, the Internal Displacement Monitoring Centre and the UNHCR for their many useful comments and suggestions at later stages of drafting this report.

4. In the course of preparing this report, the rapporteur carried out a fact-finding visit to Armenia and Azerbaijan from 4 – 8 May 2009. The aim of this visit was to acquaint himself with government policies in Armenia and Azerbaijan as regards the protection of rights of IDPs and refugees as well as in terms of finding durable solutions. In Yerevan, he met with President Sargsyan, President of the National Assembly, Head of the Migration Agency of the Ministry of Territorial Administration, Chairman of the Standing Committee of the National Assembly on Protection of Human Rights and Public Affairs, Advisor to the Human Rights Defender, heads of international humanitarian missions and representatives of the civil society. In Baku, he met with Deputy Prime Minister/Chair of the State Committee on the Work with Refugees and IDPs, Speaker of the Milli Meijlis of Azerbaijan, Chief of the State Migration Service, Ombudsperson, heads of international humanitarian missions and representatives of the civil society. In both capitals, the rapporteur also visited communal centres and settlements for IDPs and refugees. He extends gratitude to the parliamentary delegations of Armenia and Azerbaijan as well as to the Council of Europe offices in Yerevan and Baku for their effective assistance to the programme. In order not to upset the balance of this report covering the situation of IDPs throughout Europe, the rapporteur has chosen to include his conclusions from this visit as an annex to this report.

5. The goal of the present report is to raise the key political, human rights and future development concerns relating to long-term IDPs in Europe. The rapporteur remains convinced that as long as durable solutions are not found in respect of IDPs and the conflicts that caused these in the first place, the threat of re-eruption of unresolved conflicts and ethic violence in Europe will prevail. Also, Europe has the responsibility to guarantee that the IDPs and refugees from the many unresolved conflicts in Europe would not become "Europe's forgotten people".

---

2. Recommendation 1631 (2003).
3. Recommendation 1563 (2002).
4. Recommendation 1667 (2004).
5. Recommendations 1802 (2007), 1569 (2002).
6. Resolution 1497 (2006), Recommendation 1570(2002).
7. Resolutions 1648 (2009) and 1664 (2009); Recommendations 1857 (2009) and 1869 (2009).

2. Key challenges for internal displacement in Europe today

6. Some 2.5 to 2.8 million Europeans are internally displaced in 11 of the 47 member states of the Council of Europe: Armenia, Azerbaijan, Bosnia and Herzegovina, Croatia, Cyprus, Georgia, Moldova, Russian Federation, "the former Yugoslav Republic of Macedonia", Serbia and Turkey[8]. The vast majority of displaced persons were forced to leave their homes some 15 to 35 years ago as a result of armed conflicts or human rights violations, and are living in situations of protracted displacement.

7. Despite the human rights guarantees offered by the European Convention on Human Rights, the guidelines elaborated by the Committee of Ministers of the Council of Europe or the Assembly's long-standing efforts to call upon its member states to adopt national legislation in line with the UN Guiding Principles on Internal Displacement, the number of internally displaced persons (IDPs) in Europe has not fallen significantly over the past decades [9].

8. There are two particular problems relating to protracted internal displacement situations in Europe. The first is that the process for finding durable solutions has become stalled, and the second is that IDPs have been marginalised by disregard for or failure to protect their human rights, in particular economic, social and cultural rights.

9. Several Governments do not exercise effective control over their entire territory because of the lack of resolution of their internal yet international-dimension conflicts (Azerbaijan, Cyprus, Georgia). The resulting "parallel legal systems", as well as unwillingness of some national/ regional authorities or some parties or the international community to engage in effective peace negotiations that could provide durable solutions, continued insecurity and absence of organised reconciliation mechanisms limit IDPs' access to their rights during displacement and stall their return.

10. In some cases, IDPs and/or their considered options for durable solutions have become manipulated aspolitical pawns. In order to support the claim of territory not currently under its control, some governments have been pushing for the return of IDPs at the expense of local integration. In some other cases, the reality of internal displacement has simply been denied in an effort to portray the situation as solved and to direct international attention elsewhere. Temporary housing arrangements, segregated schools as well as economic and social marginalisation are among some of the immediate consequences.

11. Where return has been possible, the main challenges to the sustainability of return are the lack of jobs, inadequate housing and insufficient assistance. Difficulties acquiring documentation are also hampering access to social and economic rights, local integration and settlement of IDPs. Central governments at times fail to exercise sufficient control over reintegration processes at the local level to ensure its implementation. There is also little monitoring and information on the sustainability of return and other durable solutions.

12. IDPs are often cut off from their usual support networks and coping mechanisms and as a result their vulnerability increases dramatically. They have to cope with dramatic change and loss, as well as with deep uncertainty and fear for themselves and their loved ones. All the while, they live with the persistent threat or effects of the armed conflict, even if this may have ended years before. In many ways, IDPs are even more vulnerable and unprotected than asylum seekers who cross an international border. And yet they do not enjoy the same international protection as refugees.

13. Another characteristic of protracted internal displacement in Europe is that many IDPs have not secured justice for violations they suffered. Perpetrators of human rights violations and crimes committed during the armed conflicts mostly remain at large, court decisions are disproportionately not in favour of IDPs of certain ethnicities, or their implementation is stalled, and many IDPs continue to seek information on the fate and whereabouts of their disappeared relatives.

---

8. Montenegro will not be considered in the scope of this report as people displaced from Kosovo to Montenegro cannot be considered as IDPs since Montenegro's independence in 2006. However, their legal status is unclear since they have also not been recognised as refugees. Although an estimated 25 per cent are eligible for Montenegrin citizenship, they have not yet received it and as a result access their rights on a limited basis.

Kosovo has about 20,000 internally displaced persons according to IDMC estimates. Be it noted that all reference to Kosovo whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

9. Only about a quarter of the overall number of internally displaced in Europe have found a durable solution to their displacement - mostly in the Balkan region and mostly through rebuilding their lives in regions where they are in ethnic majority, away from their areas of origin.

14. The effective reintegration of IDPs is often a low priority of national and local governments. Donor and media fatigue regarding long-term internal displacement in Europe adds to the neglect of the remaining IDPs. This applies also to the international community dealing with IDP issues, who often lack adequate funding and suffer from differing operational structures between development and humanitarian partners or different agency mandates and priorities.

15. All in all, the current state of affairs in Europe with regard to internal displacement does not allow for much optimism or complacency. It requires from all local, regional and international actors constant vigilance and result-oriented action.

3. Major human rights concerns for IDP

16. **Housing** is typically the dominant concern both during protracted displacement and after return. Particular difficulties stem from the fact that displacement often marks for IDPs the beginning of a rural to urban transition which increases the pressure on the housing market and tends to weaken IDPs' interest to return to rural areas .The housing conditions of IDPs in Europe remain precarious. Some 390,000 IDPs 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. In the North Caucasus, nearly 13,000 IDPs live in often crowded and unsanitary conditions in collective centres. In Azerbaijan, some 39 per cent of people displaced in the early 1990s still live in collective centres. The persistence of indecent housing and living conditions after so many years reinforces the social marginalisation of IDPs. The closure of collective centres (Croatia, Serbia, Kosovo[10], Russia) has not necessarily led to improved housing alternatives for IDPs. The last tented camp was eradicated in Azerbaijan at the end of 2007 and the IDPs were relocated to the newly constructed settlements provided with necessary infrastructure. Nevertheless, some new settlements in Azerbaijan have been constructed within a few kilometres of the military confrontation line raising certain security concerns. The remoteness of some settlements poses problems for some IDPs in accessing employment and essential services.

17. While resources are often scarce in the post-conflict transition phase, IDPs suffer disproportionately since they have to compete for these resources from a marginalised position. IDPs can be disadvantaged during displacement or local integration with regard to **employment** because they have lost social networks which could have facilitated employment opportunities and they suffer from a social stigma associated to their displaced status or ethnicity. In the context of return, IDPs' livelihood opportunities can be affected by discrimination and restriction of freedom of movement due to security reasons, which prevents returnees from accessing and cultivating their land or looking for jobs. Unresolved property issues regarding business premises and land (including farm land) also limit IDPs' livelihood opportunities at their current residence and in the place of return, and compromises the sustainability of local integration and return. In case of return to areas where IDPs belong to national minorities, they may face outright discrimination.

18. Access to quality and non-discriminatory **education** is a critical concern during displacement but also in the context of return. In Azerbaijan and Georgia, for instance, despite progress made in integrating IDP children into the regular schooling system, still quite a number of children attend so-called "IDP schools", where the large majority of pupils are of IDP families and which offer, because of their geographical location in or close to IDP settlements, little possibilities for mixing with non-displaced children. Non-discriminatory and unbiased education is also an essential component of reconciliation. The existence of partisan curricula has in Bosnia and Herzegovina been a serious obstacle to return leading to partial returns where children remain in displacement or commute to attend school in a curriculum and language with which they feel comfortable. On the other hand, the continuing existence of "two schools under one roof" has cemented the separation of communities in return areas. The development of a common curriculum while being a positive development has not put an end to separate schooling of children based on their ethnicity which persists in some parts of the country. Security issues can also limit access to education like it is the case in Kosovo.

19. **Protection of property left behind** and, ultimately its **restitution or compensation***,* are often ignored or limited to residential housing to the exclusion of business premises and land, therefore hindering IDPs in their efforts to resume their lives and economic activities, and remain a serious source of grievance and a trigger-point for future conflict. Restitution programmes have been put in place in several European countries and regions affected by internal displacement (Bosnia and Herzegovina, Serbia, Kosovo, Croatia, Georgia) as well as compensation programmes for destroyed properties (Turkey, Russia) with unequal approaches and results. For instance, in Bosnia and Herzegovina, Serbia and Kosovo legislation provided for restitution of

10. All reference to Kosovo whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

socially-owned property while Croatia rejected such restitution without offering adequate compensation. Restitution of tenancy and other occupancy rights and compensation for respective losses are typically also neglected, as is the principle that displaced persons must be allowed to re-establish possession of land they held on the basis of uncontested use, bearing in mind that IDPs must not be discriminated against on the ground of their displacement[11].

20. An overly strict application of **requirements for legal documentation and non recognition of documents**, coupled with failure to replace or issue new documentation, prevents IDPs in some countries from accessing and enjoying a range of rights: health, education, property, work – and often years after their initial displacement. Where countries do not exercise effective control over their entire territory, this can result in parallel "legal systems" where authorities on either side do not recognise legal documentation issued by the other. This situation can seriously affect the implementation of legislation, judicial decisions and, ultimately, IDPs' life (recognition of years of service for pension procedures, property inheritance, diplomas, driving license, etc). This is the case for instance in Serbia and Kosovo in relation to the non-recognition of documents, but also in Georgia where laws on the protection of property in IDPs' area of origin have been enacted by the Georgian government, but have not been implemented due to the lack of cooperation by the de facto authorities of South Ossetia and Abkhazia. Similarly, the government of Cyprus, does not recognise the "Immovable Property Commission" of the internationally non-recognised "Turkish Republic of Northern Cyprus"[12][13].

21. **Discrimination, harassment and denial of political participation**by IDPs from minority communities frequently occurs at the local authority and local community level, and they are exacerbated if mixed signals are sent from the central level. European central, regional or local authorities are not always well prepared to accept and effectively cope with the tensions which unavoidably come along with social pluralism, i.e. with the co-existence of dominant and non-dominant groups.

22. **Ethnic minority groups** not linked to a party involved in the conflict - such as the Roma - are often particularly affected. Whereas displaced persons tend to flee to areas where they would not be in a minority position and where people from the same ethnic, religious or national community live, this is not an option for the Roma. Displacement aggravates the social marginalisation of Roma. The fact that many Roma do not possess legal documentation and official residence does not allow them to benefit from the assistance provided to IDPs and leads them to live in informal settlements without basic services.

23. Besides the Roma, other **particularly vulnerable IDPs** in Europe include the traumatised, disabled and chronically ill, female heads of households, children, in particular unaccompanied minors, as well as elderly, in particular those who do not enjoy family support. They are at risk of desperate poverty as well as exploitation and abuse. Donors and Governments often fail to recognize the vulnerabilities of marginalised groupsin the recovery phase, *e.g.,* by cutting funding for collective housing complexes, even though it is the most vulnerable such as the elderly or people with mental disabilities that tend to stay behind. Mental health issues, often rooted in conflict atrocities and exacerbated by the protracted nature of displacement, are frequently neglected and responses underfunded.

24. The **lack of IDP-specific policies and laws**,or their belated adoption, often add to the problems. Furthermore, IDPs either are not involved in peace processesor they become an object of political manipulation, with the result that they cannot properly influence the agenda in accordance with their best interests, needs and rights. IDP legislation, policies and programmes exist in several European countries such as Azerbaijan, Cyprus, Georgia, Bosnia and Herzegovina, Russia and Serbia. However, they do not always fully comply with the Guiding Principles on Internal Displacement either in relation to the definition of IDPs or with regards to the durable solutions supported. In the Russian Federation, only 35.4 percent of IDPs (registered by UNHCR) have IDP status in accordance with the legislation, presumably due to a government policy to decrease the number of IDPs in order to reduce burden associated with assistance and also declare the end of the conflict and stabilisation. The status, however, provides little practical assistance to lead them to return or integration.

---

11. Property related issues will be discussed at length in a separate report currently under preparation on "Solving property issues of refugees and displaced persons" (Rapporteur: Mr Poulsen, Denmark, ALDE; Origin: Doc. 11427).
12. The Council of Europe only recognises the Republic of Cyprus.
13. A decision on the legality of the "Immovable Property Commission" is currently pending at the European Court of Human Rights.

4. Available protection mechanisms

25. IDPs are entitled to protection provided for under international humanitarian law and human rights law. The 1998 **UN Guiding Principles on Internal Displacement** remain the main normative instrument which guides and assists governments to discharge their responsibilities in protecting and assisting people forcibly displaced within their countries. Although the Guiding Principles are not a binding instrument, they reflect and are consistent with international human rights and humanitarian law, and have been endorsed as an "important international framework for the protection of internally displaced persons" by key international fora.[14] Regrettably, there is still insufficient will on behalf of the governments to adopt the Guiding Principles into national legislation or to implement them in full.

26. Even though most Council of Europe member states concerned have established domestic normative frameworks for internal displacement, only three of the affected member states – Azerbaijan, Georgia and Turkey - have made some progress in bringing IDP legislation into line with the provisions of the Guiding Principles. Paradoxically, some of these are the countries with the least prospect of return of their IDP populations in the near future because of the lack of political solutions. At the same time, the IDP situation has improved best in Cyprus, where the government has devoted significant resources to ensuring IDPs' access to their rights in the government-controlled areas. Progress has also been made in the Balkans, where there have been advances in EU integration.

27. European IDPs enjoy the additional protection of their fundamental rights through the **European Convention of Human Rights**, which remains the most effective tool of protection of the IDPs in Europe. As IDPs remain under the protection of their own country, they are entitled to the same rights as any other citizen. In particular, in accordance with Article 1 of the ECHR, they are able to exercise the rights and freedoms defined in the Convention.

28. Thus each individual IDP under the jurisprudence of a Council of Europe member state is protected by the ECHR and has the right to appeal to the European Court of Human Rights. Since mid-1990s when Russia, the Balkans and South Caucasus states joined the Council of Europe, the Court of Human Rights has issued several judgments relating to internal displacement in the region. There have been a number of cases against Turkey as well. In 2007, the Court ordered Russia to pay the owners of an estate in a Chechen village for its occupation and damage by Russian police units. The Court has also ordered Turkey to pay compensation to Greek Cypriot applicants for violations of their property rights. There are also several cases pending concerning the denial of property restitution in northern Cyprus or Russia. The recent war in Georgia has brought over 3000 individual appeals to the court against Georgia, some 400 against Russia as well as an inter-state appeal launched by the Georgian authorities against Russia. On the whole, however, the number of cases brought to the European Court of Human Rights has remained relatively low, partly due to the general lack of awareness by IDPs of their rights and limited legal assistance available to them.

29. There are other Council of Europe instruments that are binding to the signatory member states. These include the European Framework Convention for the Protection of National Minorities, the Revised Social Charter, the European Convention on the Exercise of Children's Rights or the European Convention on Action against Trafficking in Human Beings.

30. Of particular importance – and much under-exploited - is the protection mechanism provided by the **European Social Charter** and the **revised Social Charter**, which allows international NGOs having participatory status with the Council of Europe and being listed as having standing with the European Committee of Social Rights to submit collective complaints irrespective of whether the organisations concerned come under the jurisdiction of any of the States Parties to the Social Charter.

31. Certain vulnerable groups are also protected by specific international instruments. Ethnic minorities, children and women, for example, are particularly at risk in these crisis situations. Article 27 of the UN Covenant of Civil and Political Rights, the U.N. Convention on the Elimination of Racial Discrimination, the U.N. Convention on the Elimination of all Forms of Discrimination against Women and the UN Convention on the Rights of the Child continue to apply even in the abnormal situation of forced internal or external displacement.

32. Of "soft law" instruments, mention should also be made of a set of **13 recommendations elaborated by the Committee of Ministers of the Council of Europe in its Recommendation Rec(2006)6** upon the instigation of the Parliamentary Assembly. This recommendation "*underlines the importance in the IDP*

---

14. 2005 World Summit Outcome, U.N. Doc. A/60/L.1, para. 132; Human Rights Council Resolution 6/32 (2007), para. 5; General Assembly Resolution 62/153 (2008), para. 10.

context of certain obligations undertaken by the Council of Europe member states that go beyond the level of commitments reflected in the UN Guiding Principles"[15]. It also refers to existing gaps in international law and the resulting need to have a binding regional instrument on IDPs in Europe. The rapporteur is of the opinion that a specific binding Council of Europe instrument could indeed contribute to bringing more specific elements to guide the member states' response to IDPs, which would also reinforce the legal value of the UN Guiding Principles. He therefore deems it desirable to reconvene the Ad hoc Committee of Experts on the Legal Aspects of Territorial Asylum, Refugees and Stateless Persons (CAHAR) in order to assess how the existing Council of Europe legal framework protects IDPs and how it ensures access to humanitarian assistance and durable solutions and, finally, where existing instruments fall short of the standards set out by the Guiding Principles on Internal Displacement or other binding instruments adopted in other regions, how to complement them.

33. It may be concluded that, although the legal and normative framework could be further improved, the outstanding issues are more related to the political will of State parties to make these instruments operational on the ground. The European Convention of Human Rights can provide sufficient protection guarantees only when IDPs are aware of the application mechanisms and enjoy access to legal assistance.

34. Regrettably today a wide gap between legislation and practice persists, particularly at local level. In some cases, the authorities face severe financial constraints and are unable to meet IDPs needs for protection and assistance, even if the will is there. In other cases, governments clearly lack the necessary political will to protect and help displaced persons.

5. National responses

35. 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.

36. In most countries Governments' efforts have focused mainly on return, limiting or excluding assistance to other durable solutions such as local integration or integration elsewhere in the country. This situation seriously limits the possibility for IDPs to make a free choice between the various durable solutions. For a solution to be considered durable, IDPs should enjoy their rights in a non-discriminatory manner and have no considerable protection or assistance needs related to their displacement. Conditions for durable solutions include a safe environment, non-discriminatory access to human rights, documentation, restitution of property or compensation, access to basic needs and livelihood opportunities.

37. The fulfilment of these conditions can take years of progressive improvement which explains why it is sometimes difficult to determine when a durable solution has been reached. It is essential that programmes supporting durable solutions have a comprehensive approach looking at all the elements which make a solution sustainable. For instance, there is often a considerable focus on reconstruction and restitution to facilitate return. In Bosnia & Herzegovina, Croatia and Kosovo, as examples, significant efforts have been made to finance the reconstruction of houses. However, in the absence of income-generating projects, reconciliation activities, and access to rights, houses will remain empty or return will not be sustainable.

38. Return in itself is not a durable solution if the conditions mentioned above are not met. Therefore returnee figures do not necessarily reflect the achievement of a durable solution and there is a need to monitor the conditions of returnees well after they have returned. While returnees are no longer displaced, they may still have specific protection and assistance needs that should be monitored to determine whether their return can be considered sustainable. Security risks for instance, can be higher upon return than during displacement.

39. Protracted displacement create situations where the line between the improvement of the living conditions of IDPs and their local integration often gets blurred. This is particularly the case where temporary IDP settlements turn into permanent ones or where IDPs tend to progressively integrate socially and economically with the local population. The main difference between the two situations is probably the intention of the displaced persons to return or stay. Local integration can either be a durable solution in itself or a way to live a decent life until other durable solutions become feasible. It is probably this blurred line that has led several countries to limit IDPs' self-reliance and living conditions in an effort to push them to return. Some countries have done this in order to avoid consolidating the results of ethnic cleansing or regain territory

15. CM(2006)36 addendum of 8 March 2006.

not under their control. Yet, it needs to be underlined that IDPs who are given the chance to integrate locally, even if temporary and without prejudice to their right to return, will be in a stronger position and have more capacity to successfully exercise this right once it becomes politically feasible.

40. There have been some positive trends and initiatives at policy level in recent years. For example, Georgia, Azerbaijan and Turkey have recently changed their approach to local integration. In 2005, Turkey developed a national framework focusing on the integration of IDPs through improved infrastructure and income-generating activities as well as psychological assistance and capacity building activities. Georgia adopted in 2005 a State Strategy and in July 2008 the Georgian Government approved an Action Plan to implement the State Strategy with a view to facilitating integration of IDPs while respecting their right of return. This Action Plan has been recently updated but it was not yet adopted by the Government at the moment of writing. Azerbaijan has invested significant resources into building purpose-built settlements for IDPs, and continues to provide other forms of assistance to IDPs. Turkey and Armenia, among others, have also developed programmes to facilitate the integration of returnees.

41. The outstanding issues of particular concern, region by region, include:

5.1. IDPs in South Caucasus (Armenia, Azerbaijan, Georgia)

42. The unresolved conflicts over the regions of Nagorno-Karabakh, Abkhazia and South Ossetia continue to affect progress on finding durable solutions for the 838,500 to 865,500[16][17]IDPs that have been displaced in the South Caucasus since the early 1990s. The war between Russia and Georgia in August 2008 and the subsequent occupation of the two separatist regions and parts of Georgian territory under Georgian government control before the war by the Russian forces added another 26,000[18] to 37,605[19] displaced persons unable to return, and dwarfed the prospects for the return of all IDPs in the near future. Chances for solving the conflict over the Nagorno-Karabakh region remains equally elusive.

43. In this context, the rapporteur welcomes the recent policy change in Azerbaijan and Georgia, which now aims at improving the living conditions and developing local integration strategies for the IDPs, all the same not excluding the ultimate possibility of their return. The Government of Azerbaijan has constructed 47 new settlements for 90,000 IDPs and is planning to provide new accommodation to another 70,000 displaced persons. The Government has considerably increased the state budget for IDPs, the 2007-2011 State Programme for IDPs now totalling 1 billion USD.

44. In July 2008, the Georgian Government adopted an Action Plan to implement the State Strategy for IDPs. The Georgian Ministry of Refugees and Accommodation has recently updated this Action Plan, taking into consideration the prevailing circumstances after the war, and is expecting to present it to the Government for adoption in June 2009. In the post-war months, the Georgian Government has constructed 38 settlements for 18,000 IDPs and provided complementary measures for livelihood and access to social services. Under the State Strategy, the Ministry of Refugees and Accommodation is providing durable housing solutions for "old" IDPs residing in collective centres through rehabilitation and ownership transfer to IDP families. A donor conference in October 2008 raised 4.5 billion USD, part of which is planned for the improvement of housing conditions of the old and new displaced persons. Some concern has been voiced over the almost exclusive emphasis on infrastructure as opposed to developing a comprehensive integration policy which would encompass the whole range of civil, cultural, economic, political and social rights of IDPs. Moreover, full participation of all segments of the IDPs in the planning and management of the resettlement plan should be better guaranteed[20].

---

16. "Protracted internal displacement in Europe : current trends and ways forward, paper presented by the Internal Displacement Monitoring Centre of the Norwegian Refugee Council (IDMC) to the seminar "Protracted internal displacement in Europe: perspectives and solutions", Geneva, 26 November 2008.
17. A recent publication by IDMC – Norwegian Refugee Council "Internal Displacement: Global overview of trends and developments in 2008", published on 1 May 2009, presents the following figures respectively: Armenia – 8,400; Azerbaijan - 573,000–603,000; Georgia – 252,000-279,000.
18. PACE Doc. 11859 of 9 April 2009.
19. "Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development", report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, Addendum: Mission to Georgia, A/HRC/10/13/Add.2.
20. *Idem.*

45. Nonetheless, vast numbers of displaced persons in Azerbaijan and Georgia continue to live in difficult conditions, either in collective centres – the majority of which do not meet minimum living standards and may negatively affect the health and well-being of IDPs, especially the children and elderly – or in cities in private accommodation, abandoned apartments and with relatives. There is limited information on the latter category of IDPs and it is therefore unclear what issues they face as a result of their displacement.

46. Elderly IDPs and female-headed households face particular difficulties; they are less likely to have an income or support for maintaining their homes in collective centres. In Azerbaijan, the practice of granting IDP status, whereby only the children of males who were physically displaced during the conflict are eligible for the status, and not those born of female IDPs, is discriminatory and further deprives female-headed households of social benefits. In both Azerbaijan and Georgia, psycho-social integration of displaced children in local schools should be paid more attention to, as many still attend public schools which, due to their location in areas of IDP settlements, are not sufficiently mixed with non-displaced pupils. In many instances IDP situations lead to role reversals and changes between men and women IDPs, with women increasingly taking more and more responsibility for the household. Men often find it difficult to secure work and have little role in bringing up the family or supporting the family. This can lead to increased tensions in the family and in some instances domestic violence and other problems.

47. Differently from Azerbaijan and Georgia, the Government of Armenia has not linked durable solutions to the peace process but has given priority to integration. There is no specific legislation for the protection of IDPs in Armenia. The Government claims that all IDPs are Armenian citizens, the refugees from Azerbaijan have been encouraged to naturalise, and that all citizens enjoy the same rights and do not need specific legislation. The key priority for the Government is the organisation of the return of the IDP families who so wish to their permanent residence. The rapporteur observed that data on the number, location and living conditions of IDPs from the border zone is to an extent missing. As IDPs are not well defined in national legislation, it causes misinterpretation about their status. The majority of refugees from Azerbaijan during the Nagorno-Karabakh conflict have been naturalised; some IDPs and refugees have resettled in the border zone under the "Post-conflict rehabilitation of bordering territories of the Republic of Armenia" programme; about 900 refugee families have solved their housing problem through the Housing Purchase Certificates that the Armenian Government has distributed since 2005. However, the state is in need of 45 million USD donor aid to be able to relodge the refugees and IDPs accommodated in derelict conditions in collective centres, plus another 38,5 million USD to organise the return of 1005 households to their permanent residence in the border areas.

5.2. IDPs in North Caucasus (Russia)

48. 85,000 to 136,500 people remain displaced in Russia more than fifteen years after the inter-ethnic and separatist conflicts in North Ossetia in 1992 and Chechnya in 1994 and 1999[21]. While the situation in Chechnya has generally stabilised, the region of North Caucasus remains insecure as hostilities continue between government forces and rebels throughout the territory. In the absence of political solutions to the conflicts, human rights abuses including abductions and enforced disappearances persist and the rule of law remains weak[22].

49. Durable solutions for IDPs continue to be hindered throughout the Russian Federation by the lack of adequate housing and employment opportunities as well as by limited and discriminatory access to services, benefits, pensions, documents and assistance. Much of it is due to the continued requirement of residence permit ("propiska")[23], internal passports or employment records, which the displaced are often not in the position to provide. Some 40,000 displaced pensioners are reportedly receiving only a minimum pension because no mechanism has been put in place to address the issue of workbooks lost during flight and burned archives.

50. Many IDPs have received compensation for lost property, but it has not led to widespread reconstruction of housing since the amount has become increasingly insufficient to purchase or build housing. Hence most IDPs live in rented accommodation or with families and friends. The Government of Russia should determine the number of IDPs still in need of permanent housing and ensure their inclusion in the federal housing programme. It should also allocate necessary funds to the programme to cover these needs.

---

21. *Idem*. The first figure quoting Russian Government sources of 2007 and the second UNHCR data of 2007.
22. "Russian Federation: Displaced people still struggling to lead a normal life", IDMC, 12 November 2008.
23. The Russian Federation committed itself to abolish the "propiska" system upon its accession to the Council of Europe in 1996. The Assembly's Recommendation 1667 (2004) also explicitly requested the Russian Federation to gradually abolish the system.

51. In 2007, the Government of Chechnya deregistered the remaining IDPs in the Republic. Collective centres, which still housed around 4,400 displaced families in 2006[24], were closed down in 2008. Many of those evicted have not found adequate accommodation since.

52. Russian courts have turned down all applications or restitution of lost or seized property in Chechnya, instead promoting compensation schemes by which IDPs could receive compensation for destroyed housing. However, property compensation is differentiated depending on the IDPs settlement preference. IDPs who return to Chechnya receive up to 350,000 roubles as compensation for lost property and housing, while those who do not return to Chechnya receive a maximum of 125,000 roubles. Those who do not return to Chechnya must give up the title to their housing and property while those who return to Chechnya retain their title.

53. Ethnic Chechen IDPs living outside the North Caucasus often fall victim of racial attacks and face particular difficulties in securing housing, personal documents and jobs, and in moving freely without police controls. The Russian Government should be encouraged to implement measures to combat racism and xenophobia as prescribed in the PACE Recommendation 1667 (2004).

5.3. IDPs in the Balkans (Serbia, Kosovo, Croatia, "the former Yugoslav Republic of Macedonia", Bosnia and Herzegovina)

54. 13 years after the war in Bosnia and Herzegovina and Croatia, and 10 years following the armed conflict in Kosovo, over 354,070 IDPs remain in the region as well as an estimated 20,000 unregistered Roma IDPs[25], some of whom have been displaced for a period of between 7 and 17 years.

55. In general, as regards the Balkan region, inadequate housing is a major problem and property restitution is hindered due to the lack of documentation. For Roma, lack of documentation poses even greater problems in accessing basic rights. There is poverty, unemployment, lack of access to livelihoods and local integration is not supported by the authorities. In return areas, displaced persons face discrimination as regards assistance and entitlements (including in education and pension awards) increasing the vulnerability of the affected population and pose additional obstacles to return.

56. In 2008, 124,600 registered IDPs remained in Bosnia and Herzegovina and almost 600,000 people had returned to those places from where they originated[26]. Returnees are more likely to suffer discrimination and lack of access to livelihood opportunities and services, than IDPs as they form part of a local ethnic minority. Fragmentation of the social welfare system has resulted in differential pension awards being paid out, increasing the vulnerability of the elderly. Access to unbiased and non-segregated education is required. Furthermore, whilst there were 1,500 returns in 2008, the situation of those 8000 persons in collective centres is unlikely to improve. Whilst reconstruction of housing is important, return and local integration options require greater support. In late January 2009, the Council of Ministers of Bosnia and Herzegovina adopted a Revised Strategy for the Implementation of Annex VII of the Dayton Peace Agreement, which was still pending before the Parliamentary Assembly of Bosnia and Herzegovina at the time of writing. This Revised Strategy will create a new momentum, if ratified and implemented, for the remaining IDPs and returnees to exercise their right to a durable solution.

57. In March 2008, 2,600 IDPs remained in Croatia half of whom were Serb.[27] Significant progress has been made by successive governments since 2000 in reforming legislation, through property restitution and reconstruction efforts, including adopting measures in favour of Serb return. Actual returns have been low though: about one third of Croatian Serb IDPs and refugees have returned but only half of these returns have been sustainable. Obstacles to return include lack of full pension entitlements being made out, impunity for war-crimes, lack of remedies for the restitution of occupied agricultural land, private property claims through the judicial process and lack of remedies for lost occupancy rights.

---

24. "Internal displacement in Europe: Rebuilding lives in new contexts", IDMC, 2008, p.86.
25. *Ibid. op cit*., quoting Government and UNHCR sources. Be it mentioned that the Serbian government continues to consider people displaced from Kosovo and residing in Serbia proper (excluding Kosovo) as IDPs, and that it is responsible for ensuring full access of IDPs to their rights.
26. "Internal Displacement. Global Overview of Trends and Developments in 2008". IDMC and Norwegian Refugee Council, May 2009. p.72. http://www.unhcr.org/refworld/pdfid/49fe9a952.pdf
27. *Ibid. op. cit.* "Internal Displacement. Global Overview of Trends and Developments in 2008". IDMC and Norwegian Refugee Council, May 2009. p.77.

58. In 2008, Serbia (excluding Kosovo) had 226,000 IDPs with an estimated 20,000 Roma. 20,000 people were also displaced in Kosovo, mainly in Serb-majority areas.[28] Kosovo's declaration of independence from Serbia in 2008 may have created uncertainty for displaced Serbs in Serbia proper and within Kosovo itself. Roma are the most vulnerable of the IDPs here and lack of documentation prevents registration and access to housing and social assistance. Prospects for durable solutions and integration of IDPs are slim.

59. As regards "the Former Yugoslav Republic of Macedonia", 770 people remain displaced today, the majority being ethnic Macedonians or Serbs who felt unable to return to the Albanian-dominated regions. 400 of the IDPs were placed in private accommodation but 300 continue to live in poor conditions in collective centres. There is concern that IDPs have grown increasingly reluctant to return following the 2008 parliamentary elections which were accompanied by outbreaks of violence in Albanian-dominated areas.[29]

5.4. IDPs in Turkey

60. According to a national IDP survey released in 2006, some 953,680 to 1,201,200 people were displaced from the east and south-east of the country between 1986 and 2005[30]. In recent years, the Turkish Government has made significant progress to address (and even to prioritise) the internal displacement situation. Apart from the above national survey on the number and conditions of IDPs, it has drafted a national IDP strategy, adopted a law on compensation for property damages, adopted in 2006 the Van Action Plan for addressing the needs of IDPs at the provincial level, and supplemented the 2004 Return to Village and Rehabilitation Project (RVRP). In addition, Damage Assessment Commissions have been established to compensate for property losses suffered by the IDPs. A national framework focusing on the integration of IDPs in urban areas through improved infrastructure and income-generating activities has been developed; however, implementation has not yet followed at the desired speed.

61. The RVRP, which encompasses 14 provinces, is based upon co-ordination and co-operation between various departments in order to ensure a healthy and effective return process for those who wish to return and to reinforce adaptation to urban life by economic and social conditions for those who prefer to stay at their current residences. About 83,3 million YTL (40 million euros) has been spent through this project on infrastructure investments, rebuilding schools and village clinics, donating construction materials to citizens returning to their villages as well as on social projects. The 2006 national IDP survey revealed that some 55 per cent of the displaced population still wished to return to their areas of origin, while about 12 per cent of the IDP population had returned[31]. 88 per cent of displaced people surveyed who had returned to their villages said nevertheless that they did so without assistance from the government. Return programmes have also been criticised for lacking transparency, consistency, consultation and funding[32]. There is continued absence of development in the return areas, and further efforts are needed to improve basic infrastructures.

62. Little or no steps have been taken towards abolishing the "village guards", a paramilitary force created by the government to oppose the Kurdish Workers' Party (PKK), which was responsible for some of the worst human rights violations in the 1980s-1990s and which has been identified as a principle obstacle to the return of IDPs and to the stability of the region. A law adopted in May 2007 even strengthens the "village guards" system. Landmines (reportedly about a million within the country) also remain a security concern. Other concerns include the lack of economic opportunities, social services and basic infrastructure in south-eastern Turkey constitute a hindrance to return[33]. The Turkish government should be encouraged to further address whether the solutions to internal displacement must equally be part of wider effort at national recognition and reconciliation on the Kurdish issue, if any such solution is to be durable and effective. Linkages between durable solutions to displacement and reconciliation initiatives to address past human rights violations against IDPs, should be studied.

63. Considering that many IDPs will not return, there is a need to provide concrete solutions for displaced persons who opt for local integration. Most displaced people live in peripheries of cities, both within affected provinces and elsewhere in Turkey. They are among the urban poor, sharing with other migrants the problems

---

28. *Ibid. op. cit.* "Internal Displacement. Global Overview of Trends and Developments in 2008". IDMC and Norwegian Refugee Council, May 2009, p.76.
29. *Ibid. op. cit.* "Internal Displacement. Global Overview of Trends and Developments in 2008". IDMC and Norwegian Refugee Council, May 2009, p.77.
30. "Turkey: progress on national IDP policy paces way for further reforms", IDMC, 26 July 2007.
31. According to information received from the Turkish delegation to the PACE, as of October 2008, 151,469 citizens from 25,001 households had returned to their villages.
32. "Internal Displacement. Global Overview of Trends and Developments in 2008". IDMC and Norwegian Refugee Council, April 2009, p. 75.
33. "Turkey: progress on national IDP policy paces way for further reforms", IDMC, 26 July 2007.

of acute social and economic marginalisation and limited access to housing, educational and health facilities. It is unclear if IDPs are specifically discriminated against though it may be inferred that IDPs from Kurdish ethnicity of rural background is aggravating their social and economic marginalisation and encounter problems integrating into an urban environment since most lack basic educational, occupational and linguistic difficulties.

64. Some problems particularly identified vis a vis IDPs are the lack of psychosocial care, despite a prevalence of psychological and emotional trauma, low levels of education and high unemployment among adults, and particularly among displaced women. Displaced children have limited access to schooling, and child labour is reported to be an increasing problem in urban centres with significant IDP populations.

65. A number of Government programmes fail to take into consideration the specific situation of the displaced. For instance, one criteria for determining poverty and eligibility to social assistance is not owning agricultural property. Many displaced people own rural property and are therefore disqualified even if they have been unable to access their property for more than a decade. This indicates a need for Government programmes and plan of action that would specifically address IDPs in urban settings.

5.5. IDPs in Cyprus

66. More than 30 years after having been displaced, up to 201,000[34] people continue to be internally displaced in the area under the control of the Government of the Republic of Cyprus. The Turkish Cypriot leadership considers, that displacement ended with the 1975 Vienna III agreement. While Cypriot IDPs no longer have fundamental humanitarian needs and have largely integrated in the places they have settled, the displaced are still unable to take back possession of the property they forcibly left behind, or to return to their homes.

67. At political level, the renewed political process between the leaders of the two Communities, which started in March 2008, inspire reasonable optimism. For the first time in recent years, and despite fundamental disagreements between the sides on a number of key issues, conditions seem to be better than ever before for achieving substantial progress in the settlement process of the Cyprus problem. The process brings hope to Cypriots, but remains fragile and needs to be encouraged and supported by the international community.[35]

68. The Committee for Missing Persons, which resumed its activities in 2004, has achieved some results. The Government of the Republic of Cyprus, the Turkish Cypriot leadership and Turkey[36], should be encouraged to investigate the fate and whereabouts of the disappeared and inform relatives of the progress of investigations. Excavations, exhumations and identifications are ongoing, but investigations as to the conditions they disappeared and / or they perished, have not begun.

69. Property remains the main outstanding issue for displaced people. There is still no mutually agreed mechanism for deciding property claims, and the choice of residence for the displaced persons is limited. The development of property for housing, tourism or commerce in the area not under the effective control of the Government of the Republic of Cyprus, has complicated matters further. In 2006, the Republic of Cyprus passed a law making the purchase, rent and sale of property owned by Greek Cypriots in the occupied part, without the consent of the registered owner a crime[37]. Displaced Cypriots on both sides have applied to domestic and international courts to assert their rights. In a judgment in 2005[38], the European Court of Human Rights ordered Turkey to introduce a remedy for the protection of property and possessions in the area under Turkish Cypriot administration. In response, in March 2006, the Turkish Cypriot leadership established the "Immovable Property Commission". A decision on the effectiveness and adequacy of this "Commission", which is not recognized by the Government of Cyprus, is currently pending before the European Court of Human Rights. Another landmark judgment regarding the issue of property rights of Greek Cypriots, in relation to their properties in the occupied part of Cyprus which are illegally sold to foreign nationals, was issued on the 28th April 2009 by the Court of Justice of the European Communities[39]. The court said among other that a judgment of a Court in the Republic of Cyprus must be recognized and enforced by the other member states,

---

34. IDMC Global Overview 2008, p. 70.
35. «Situation in Cyprus», report by the PACE Political Affairs Committee (Rapporteur: Mr Hörster, Germany, EPP/CD), Doc. 11699 of 12 September 2008.
36. European Court on Human Rights Judgment *Cyprus v. Turkey* of 10 May 2001.
37. «Cyprus : Lack of political settlement prevents the displaced from fully enjoying their property rights», IDMC, 18 December 2007, p.10.
38. *Xenedis-Arestis v. Turkey.*
39. *Meletis Apostolides v. David Charles Orams and Linda Elizabeth Orams* of 28 April 2009.

even if it concerns land situated in the northern part of the island. The suspension of the application of the *acquis communautaire* in those areas of the Republic of Cyprus in which the Government does not exercise effective control, and the fact that a judgment given by the courts of a member state cannot, as a practical matter, be enforced where the land is situated, do not preclude its recognition and enforcement in another member state.

70. An additional concern is the discrimination of children of IDPs: whereas children whose father has a "displaced person" status are entitled to a Refugee Identity Card and the benefits deriving from "displaced person" status, children whose mother has the same status are not granted the same benefits. They are only entitled to a Certificate by Descent, which however does not entitle them to access any benefits. This issue is currently under examination by the Government of the Republic of Cyprus. The Government of the Republic should amend national legislation to ensure that all children of people with "displaced status" are treated the same in accordance with the Constitution of the Republic of Cyprus and international obligations.

6. International response: role of the Council of Europe in advancing protection of the human rights of IDPs

71. It is a core business of the Council of Europe to encourage member states to step up the implementation of their legislation in place and to observe human rights to the letter. The various institutions and monitoring bodies of the Council of Europe follow the situation of IDPs enjoyment of their rights. Their findings and conclusions should be systematically mainstreamed in European states' action plans for the protection and promotion of IDPs' human rights. Also, the avenues provided by the collective complaints mechanism under the European Social Charter (Revised) should be further explored.

72. However, most importantly, the Council of Europe – and most particularly its Assembly - needs to tackle the root causes which led these populations to the displacement in the first place and which keep them in displacement still today. As long as lasting political solutions are not found, i.e. as long as inter-ethnic tensions continue to exist, national minorities cannot live in complete safety with full respect for their rights, separatist movements are supported externally by other states or non-state actors, and the countries which have suffered these terrible conflicts have not become stable, peaceful, prosperous democracies, any long-term solution to the problems of displaced persons will be difficult to deliver. It is therefore of paramount importance that the member states join and implement such instruments as the Framework Convention for the Protection of National Minorities and the European Convention of Regional and Minority Languages, and promote in their societies values of pluralist democracy, human rights, tolerance, the rule of law, and non-discrimination.

73. It is the Council of Europe's and this Assembly's responsibility to prevent wars and to prevent displacement. Genuine international peace keeping and peace building efforts are necessary in the regions where violence and prejudice against local communities and IDPs cannot be curbed by locally available political means. Member states of the Council of Europe should avail their expertise and resources, either through the Council of Europe or other competent international bodies, in support of the protection, safe and dignified return and integration of IDPs. The rapporteur welcomes to this end the decision of the Assembly's Political Affairs Committee in November 2008 to set up an Ad Hoc Sub-Committee on early warning systems and the prevention of crises in Europe. IDP-related human security and international humanitarian law and international law issues should figure high on the agenda of the envisaged conference to be held later this year.

74. The Council of Europe's Commissioner for Human Rights should also be encouraged to bring together national human rights institutions and Ombudspersons from the regions with current 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.

75. The Council of Europe Development Bank should be encouraged to step up its co-operation with the member states concerned with a view to financing more projects regarding returning refugees and IDPs.

76. The Assembly should remain seized for a more comprehensive follow up on IDP-related issues, both through its country by country monitoring mechanism conducted by the Monitoring Committee and through the "regional" or issue-based reports by its Committee on Migration, Refugees and Population. In particular, the rapporteur sees the need for further attention to be paid to the situation of the displaced persons in the Caucasus region and in Turkey.

7. Future perspectives: ways forward

77. Four elements must be put in place to ensure that IDPs can fully enjoy their human rights in Europe. These include:

a. a renewed effort by the international community to find political solutions

b. a strong legal and normative framework;

c. a strong will of all relevant actors to implement such a framework; and

d. the capacity of these actors to implement such a framework.

78. Although in legal terms the primary responsibility for protecting displaced persons lies incontestably with national governments and local authorities, it is the common responsibility in Europe to engage in finding political solutions to the lingering internal conflicts. The recent war in Georgia was a tragic reminder that the threat of war remains a reality in Europe even in the 21st century, and that international "ostrich policies" and reluctance to deal with the heart of the matter can lead to severe consequences. The rapporteur highlights that resolving internal displacement and preventing future displacement are essential elements of peace building and thus inextricably linked to achieving lasting peace. Much stronger pressure from the international community is therefore needed to find political solutions and work out reconciliatory mechanisms.

79. The absence of political solutions should however not serve as an excuse for Governments for failing to address protracted displacement situations. The Government retains the primary responsibility to its citizens regardless of a protracted conflict and even in the absence of territorial control.

80. IDPs' right to return under international humanitarian law as well as their right to return in the exercise of their freedom of movement deriving from international and regional human rights law must be unconditionally observed and ensured by all responsible authorities. This requires that potential returnees are guaranteed security which in turn underlines the importance of bringing those who caused the displacement to justice. It is also essential that the living conditions of the displaced are adequate, for instance, that they have access to basic services such as education or healthcare and can find employment or other livelihoods. Damaged houses must be repaired or rebuilt, occupied property must be returned to lawful owners and other tenancy or occupancy right should also be restituted.

81. In reality, return may be very complicated even when political and material obstacles are removed. A hostile atmosphere is not easy to deal with - as seen in Bosnia and Herzegovina where many displaced people have sold their houses rather than move back. Though this tendency may indicate failure, it is important to recall that return always must be *voluntary*, it is not an *obligation.*

82. Authorities have the responsibility to enable conditions for three viable options: return, integration or integration elsewhere in the country. They should not favour one approach to the exclusion of others and base their policy and programming on participatory assessments of durable solution preferences carried out among displaced populations, including marginalised groups.. Enabling the IDPs to lead a normal life, where they currently are, and protect their right to return are not mutually exclusive.

83. Both international and national legislation and normative frameworks need to be further developed. IDPs must enjoy the same level of protection and realisation of their rights as the rest of the population, though respect of their rights may require specific and additional effort. IDPs have specific vulnerabilities and assistance needs not shared by the rest of the population. They are therefore entitled to differential and preferential treatment without such treatment being deemed "discriminatory".

84. Greater concern for IDPs should not, on the other hand, come at the expense of other people at risk. Discussions that emphasise the plight of IDPs are often understood to imply that those who have not been displaced are comparatively safer and that IDPs are systematically at greater risk. This is not always the case. There are many instances when people are unable to flee their homes during an armed conflict, even when staying may endanger their lives. These people also need priority attention.

85. The majority of the European countries concerned are in the phase of post-conflict recovery now. Many of these governments have progressively modified their approach to the problem of IDPs, moving away from humanitarian assistance and mainstreaming their protection and assistance into development strategies and poverty reduction plans. In several countries, this has meant the phasing out of direct assistance to IDPs. The reason behind this is that it is expected that IDPs will take advantage of the benefits provided by regular social welfare system as other citizens do, based on socio-economic criteria.

86. This development is positive to the extent that it certainly strengthens the integration of IDPs into existing social structures and normalises their situation as citizens. However, it also creates the risk that their special needs are ignored. A considerable segment of the population continues to live in collective centres, has no land to cultivate, struggles to earn an income, and faces discrimination in gaining access to public services. Thus there is still a strong need for national authorities to devote resources, expertise and political will to address the specific vulnerability of IDPs at their current place of residence. There is also a continuing need for international assistance, notably in terms of technical aid, expertise and knowledge sharing.

87. Action plans on IDPs need to give particular attention to minority groups and their human rights in order to avoid a further cycle of violations. Many persons from minority groups may need special protective measures given that they may lack proof of identity or residence before their displacement. Governments have still to realize that the creation of a climate of tolerance and dialogue is necessary to enable ethnic and cultural diversity as a factor, not of division, but of enrichment and cohesion for European societies.

88. Children, especially those who become unaccompanied during armed conflicts, should be the subject of particular attention and assistance by competent authorities in order to guarantee their basic needs and rights, including housing and access to education. Women and girls are also at a heightened risk of abuse and gender-based violence. Survivors of violence and torture require specific support.

89. Also the considerable implementation deficit needs to be tackled. For example, tax benefits and favourable welfare arrangements provided for by law in some countries are not always recognised and applied in practice. Furthermore, the efficiency of the bodies and agencies responsible for implementing laws set up in countries concerned needs to be enhanced. Often the administrative complexities and bureaucracy encountered by displaced persons are as much a matter of lack of administrative capacity as they are of lack of will.

90. Bottom-up initiatives need to be encouraged and developed. Civil society and NGOs have a key role to play – to speak out on behalf of IDPs and promote their agenda. The IDPs themselves need to have better awareness and education on the instruments available to protect them. Finally, IDPs must be informed and consulted on all relevant steps leading to durable solutions, and to the extent possible, be given the opportunity to participate in decisions affecting them.

91. There is no single solution to internal displacement. Those affected have too varied protection and assistance needs. Innovative responses need therefore to be promoted in order to effectively address the multitude of needs faced by the affected populations.

Appendix – Summary of the main issues discussed by the rapporteur during his visit to Armenia and Azerbaijan, 4 – 8 May 2009

1. During his visit to Yerevan on 4 and 5 May and to Baku on 6-8 May, the rapporteur identified a number of outstanding issues that the Armenian and Azerbaijani authorities should tackle, in some cases in collaboration with and through the financial assistance and technical expertise of the international community, involving the IDP themselves so that their views and opinions can be heard.

Armenia

2. The Norwegian Refugee Council estimated in a survey in 2004 that there were 8,000 people still internally displaced from the conflict with Azerbaijan in the early 1990s. According to the Head of the Migration Agency of the Ministry of Territorial Administration of the Republic of Armenia, three distinct groups of internally displaced persons may be distinguished: first, about 100,000 people who were displaced by the 1988 earthquake; second, some 70,000 people who were displaced during the bombing of the bordering zone of Armenia by the Azeri forces in 1992-1994, and third, another 20,000 people displaced by more recent man-made and natural disasters. The fact that a far larger number of Armenians were forcibly displaced from Azerbaijan during the conflict (about 360,000 in total) has generally overshadowed the plight of the IDPs from the same conflict. At the same time, some refugees from Azerbaijan first settled in the border areas of Armenia, and only later became internally displaced.

3. There is no specific legislation for the protection of IDPs in Armenia, nor is the national responsibility clearly defined. Notwithstanding the Government's legitimate claims that – as citizens – IDPs enjoy the same rights as all other Armenian citizens, the fact that IDPs are not defined in Armenian legislature gives ground to misinterpretation and confusion about their status. Besides, as argued in the explanatory memorandum, IDPs have specific vulnerabilities, which need to be defined in legislature and taken care of at state policy level.

4. The Armenian Government has pursued for a long period of time a policy of integration of refugees (some of whom are also IDPs from the border zone). Since the year 2000 when the law on persons forcibly displaced from Azerbaijan between 1988 and 1992 was passed, about 85,000 refugees have been naturalised. By the estimation of some NGOs, only about 20,000 have a refugee status. Many of those who have obtained citizenship use their passport to settle outside the borders of Armenia; an estimated 150,000 refugees and internally displaced have emigrated[40], the majority to Russia but also to Western European countries and the United States.

5. The legislation grants all refugees and naturalised persons the right to protection and assistance. However, the living conditions of most (former) refugees have not improved. Most conflict-induced refugees are dispersed in rural areas and in towns and cities, mainly in the capital Yerevan and in Syunik, Tavush and Gegharkunik provinces[41]. A few have been able to buy a home; some inhabit the houses vacated by the Azeri refugees during the conflict. However, many still face the problems of inadequate shelter and extreme poverty. According to information received from local civil society organisations, of the 280 original "dormitories" for refugees and IDPs, there still exist 150, where conditions are very basic. Unemployment among the refugee/IDP community is considered to be three times more than for the mainstream population, and poverty is rampant. Families face difficulties accessing material needs, are often not in the position to take care of their children's education, and lack basic social and economic rights.

6. Improvement of housing conditions and providing adequate shelter for all is the declared key priority to the Government. Many "dormitory" buildings, which were in repairable conditions, have been restored with funds from the UNHCR and the Norwegian Refugee Council[42]. Some of these have been privatised, enabling people living there to become homeowners. In 2004, a special programme on housing purchase certificates (at nominal value of 30,000 USD per 2-member family) was launched to enable those refugees currently living in most precarious conditions in collective centres to acquire new apartments. According to different data, 3,300 to 3,740 families[43] were identified in 2003, qualifying for this programme. In three years, about 900 families from nine of the eleven "marzes" (territorial divisions of Armenia) have solved their housing problems through these certificates. Both government officials and civil society representatives agree, however, that the

40. According to the different assessments, the number of population left Armenia since 1992 fluctuates from 900,000 to 1,000,000. http://www.dmr.am/ADMR/INDEX.HTML
41. "Internal displacement: Global Overview of trends and developments in 2008", IDMC and Norwegian Refugee Council, May 2009, p. 78.
42. "Refugees and displaced persons in Armenia, Azerbaijan and Georgia", report by the Committee on Migration, Refugees and Population (Rapporteur: Mr Cilevics, Latvia, Socialist Group), PACE Doc. 10835 of 6 February 2006, p. 5.
43. The first figure was given by the Head of the Migration Agency, the second by the Public Defender's Office.

sum does not correspond to market conditions, especially in urban areas[44]. It has therefore been decided recently that in the case of bigger cities like Yerevan, new houses will be built instead. The state is in need of 45 million USD for this purpose. The rapporteur suggests, given the economic difficulties the Republic of Armenia is currently facing, that this problem be solved through international donor aid. He calls upon the European Union in particular to consider funding this through the new eastern partnership programme or through other applicable programmes. He further urges the Armenian authorities to consider becoming a member of the Council of Europe Development Bank, which could offer new funding opportunities for refugee and IDP- related programmes.

7. Although many IDPs returned to their homes in the bordering zone with Nagorno-Karabakh, they still suffer from limited access to adequate medical services or education due to the lack of staff or damaged infrastructures and buildings[45]. The continuing insecurity, presence of landmines, destruction of infrastructure and little opportunities for employment discourage the return of the remaining IDPs. In 2008, the Armenian Government adopted a new programme of "Post-conflict rehabilitation of bordering territories of the Republic of Armenia", which aims *inter alia* at the resettlement of another 1005 families (ca 20,000 people) who would like to return. The Armenian Government is seeking funds for the implementation of this programme, which is estimated at 38.5 million USD, including for the resettlement of the families concerned and for the rehabilitation of nearly 20,000 homes damaged or destroyed during the conflict.

8. Unfortunately, while in Yerevan, the rapporteur received information on general donor fatigue. Today, there is no international agency providing protection or assistance of IDPs, although many agencies are involved in poverty alleviation programmes. The rapporteur estimates that international funding and technical assistance is still badly needed for more specific refugee/IDP related programmes. Durable solutions for the displaced could be reached through targeting their specific needs within broader programmes, such as shelter, access to cultivable land, demining of land or economic opportunities and regional development projects.

Azerbaijan

9. With its estimated 573,000 – 603,000[46] IDPs, Azerbaijan has the greatest per capita concentration of displaced persons in Europe. As a result of continued political deadlock over the future of Nagorno-Karabakh and its surrounding districts, the situation of most Azerbaijani IDPs is at a standstill. The Government of Azerbaijan has for years been pushing for return rather than giving priority to local integration. While underlining the right of IDPs to return voluntarily to their former homes in safety and dignity, the rapporteur welcomes the recent change in the Government's policies to provide adequate living conditions to displaced persons in need as well as its efforts in bringing legislation in line with the UN Guiding Principles. The Government of Azerbaijan seems to take its responsibilities seriously. In line with the 2004 State Programme on IDPs, the last tent camps of IDPs were closed in December 2007.

10. Since 2001, the government has resettled altogether some 90,000 IDPs from the worst IDP settlements to 49 new villages. Displaced communities have been settled and resettled together in order to facilitate eventual reintegration in places of origin. This choice may be justified, even though living in closed-up and nostalgic communities hampers the integration of these IDPs in their new places of settlement and reinforces the belief among these communities that return is the sole solution. All IDPs the rapporteur spoke to considered return to their homes in Nagorno-Karabakh as the only possible solution to their plight.

11. The 2007-2011 State Programme for IDPs has the budget of 1 billion USD[47] and foresees further settlement of some 75,000 IDPs into new villages, the construction of new infrastructure and the creation of work opportunities. In 2008 alone, 336.9 million AZN[48] (approx 336 million EUR) were allocated from the state budget, State Oil Fund and other sources to solve the social problems of IDPs and refugees. This constitutes more than a three-fold increase compared to five years ago. While improved funding is highly appreciable, the new settlements should be planned so as to both guarantee the physical security of IDPs, notably when located close to the line of contact with Nagorno-Karabakh, and provide employment and other economic opportunities.

---

44. According to the office of the Human Rights Defender of Armenia, also the way the families in need were defined by only one-time check has brought many complaints to their office.
45. "Internal displacement: Global Overview of trends and developments in 2008", IDMC and Norwegian Refugee Council, May 2009 p. 78.
46. According to the IDMC Global Overview 2008, the Azerbaijani Government estimated the figure to be at 572,531 IDPs in April 2008, including those 200,000 children since born to male IDPs. In December 2008, the UNHCR presented the figure at 603,251 IDPs.
47. "Azerbaijan: IDPs still trapped in poverty and dependence", IDMC, 14 July 2008/ www.internal-displacement.org
48. The "Azerbaijan Migration Centre" Annual Report 2008, Ganun, 2009, p. 19.

12. Apart from those resettled, about half of IDPs continue to live in harsh conditions in sub-standard collective centres, self-built mud houses, abandoned houses and lodgings with relatives for more than 15 years. Some 70,000 IDPs have been squatting in private apartments mainly left by ethnic Armenians during the conflict. Outside the major cities where about 40 per cent of IDPs reside, IDPs live mainly in the central and western parts of the country near Nagorno-Karabakh. While the government has closed the worst settlements, some IDPs continue to live in impoverished shelters of poor structural quality[49]. More efforts are therefore needed to include those living in makeshift and temporary shelter in programmes for improved housing conditions.

13. The rapporteur also encourages the Azerbaijani government to take measures to confer legal security of tenure upon displaced households that lack titles for their property in new and informal settlements as well as villages of return. Currently there is no law on resettlement to clarify the legal basis for IDPs' residence in the houses[50].

14. Many international humanitarian organisations in Baku expressed their concern over IDPs becoming increasingly dependent on direct government assistance. They currently receive a monthly allowance of about 14 EUR, are provided food assistance, fuel, free communal services and higher education. IDPs are twice as likely to be unemployed than the mainstream population. Jobs are easier to be found in cities but many struggle to register their residence due to bureaucratic processes, lack of documents and corruption. In rural areas, land cultivation is minimal because of slow landmine clearance. Feeling of insecurity and uncertainty about the future also stands in the way of self-reliance of IDPs.

15. Additional concerns include access to quality education or health services, in particular psychological health treatment. Some 60 per cent of the displaced children are taught in segregated classes. Poverty has caused some displaced pupils/students to drop out of school, as has the movement of families and early marriage in the case of girls. Further efforts are needed to ensure that displaced children can attend separate or mixed schools, that there are no financial barriers and that they can receive quality education.

16. Improved mechanisms for the systemic involvement and participation of different groups of IDPs in all stages of national programmes and policies affecting them should also be encouraged. Currently IDPs are not consulted on the government decisions as regards them. Also, IDPs cannot run in local municipal elections because of their problems of registration.

17. During his visit, the rapporteur was briefed on the Government's Framework Plan on the Return of Displaced Persons, commonly known as the "Great Return" programme, currently being drafted by 32 state agencies and international organisations. This document is supposed to provide for the return of the ethnic Azerbaijanis after resolving the conflict and paying off compensation (estimated at 60 billion USD[51]). The rapporteur appeals to the Azerbaijani authorities, together with the international community, to carefully study and plan the costs, reconstruction needs, public awareness and psychological preparedness of the potential returnees, and to compile a proper register of titles and other forms of evidence for property left behind by IDPs. The international community should also be more actively involved in clearing potential return areas of mine-fields and unexploded ordnance.

18. Finally, the rapporteur's attention was brought to the fact of decreasing donor support and its shift from direct assistance to more broad-based economic development and poverty reduction programmes, largely due to the country's own increased financial capacities. However, technical know-how and expertise continues to be badly needed, not only in IDP and returnee issues but also in assisting Azerbaijan with the growing numbers of refugees and migrants as the country becomes more prosperous. He therefore appeals to all relevant actors not to decrease further support and focus on technical assistance and expertise where needed.

***

Reporting committee: Committee on Migration, Refugees and Population

Reference to committee: Doc. 11804, Reference No. 3523 of 30 January 2009

Draft recommendation unanimouslyadopted by the committee on 27 May 2009

---

49. "Azerbaijan: IDPs still trapped in poverty and dependence", IDMC, 14 July 2008, p.4.
50. *Idem*, p.6.
51. The "Azerbaijan Migration Centre" Annual Report 2008, Ganun, 2009, p. 19.

Members of the committee: Mrs Corien W.A. **Jonker** (Chairperson), Mr Hakki Keskin (1st Vice-Chairperson), Mr Doug Henderson (2nd Vice-Chairperson) (alternate: Mr Bill **Etherington**), Mr Pedro Agramunt (3rd Vice-Chairperson) (alternate: Mr Gabino **Puche**), Mrs Tina Acketoft, Mr Francis Agius (alternate: Mr Joseph **Debono Grech**), Mr Ioannis Banias, Mr Alexander van der Bellen, Mr Márton Braun, Mr André Bugnon, Mr Sergej Chelemendik, Mr Vannino Chiti, Mr Christopher Chope (alternate: Mr Michael **Hancock**), Mr Boriss Cilevičs, Mr Titus Corlăţean, Mr Telmo Correia, Mrs Claire Curtis-Thomas, Mr David **Darchiashvili**, Mr Arcadio Díaz Tejera, Mr Mitko Dimitrov, Mr Vangjel Dule, Mr Tuur Elzinga (alternate: Mrs Tineke **Strik**), Mr Valeriy **Fedorov**, Mr Oleksandr Feldman, Mr Relu Fenechiu, Mrs Doris Fiala, Mr Bernard Fournier, Mr Aristophanes **Georgiou**, Mr Paul Giacobbi, Mrs Gunn Karin Gjul, Mrs Angelika Graf, Mr John **Greenway**, Mr Andrzej Grzyb, Mr Michael Hagberg, Mrs Gultakin Hajibayli, Mr Davit Harutyunyan (alternate: Mrs Hermine **Naghdalyan**), Mr Jürgen Herrmann, Mr Bernd Heynemann, Mr Jean **Huss**, Mr Tadeusz Iwiński, Mr Zmago Jelinčič Plemeniti, Mr Mustafa **Jemiliev**, Mr Tomáš Jirsa, Mr Reijo Kallio, Mr Ruslan Kondratov, Mr Franz Eduard **Kühnel**, Mr Andros Kyprianou, Mr Geert Lambert, Mr Pavel Lebeda, Mr Younal Loutfi, Mr Arminas Lydeka, Mr Andrija Mandić, Mr Jean-Pierre Masseret, Mr Slavko Matić, Mrs Nursuna **Memecan**, Mrs Ana Catarina Mendonça, Mr Gebhard Negele, Mr Hryhoriy **Omelchenko**, Mr Alexey Ostrovsky, Mr Grigore Petrenco, Mr Jørgen Poulsen, Mr Cezar Florin Preda (alternate: Mr Iosif Veniamin **Blaga**), Mr Milorad **Pupovac**, Mrs Mailis Reps, Mr Gonzalo **Robles**, Mr Branko Ružić,Mr Giacomo **Santini**, Mr André **Schneider**, Mr Samad Seyidov, Mr Steingrímur J. Sigfússon, Mrs Miet Smet, Mr Dimitrios Stamatis, Mr Florenzo Stolfi, Mr Giacomo Stucchi, Mr Vilmos Szabó, Mr Dragan Todorović, Mr Tuğrul **Türkeş**, Mrs Özlem **Türköne**, Mr Michał Wojtczak, Mr Marco **Zacchera**, Mr Yury Zelenskiy, Mr Andrej Zernovski.

N.B.: The names of the members who took part in the meeting are printed in **bold**.

Secretariat of the committee: Mr Neville, Mrs Odrats, Mr Ekström, Ms Meredith