Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 1287 (1996)[1]

Refugees, displaced persons and reconstruction in certain countries of the former Yugoslavia

Parliamentary Assembly

1. The Assembly welcomes the conclusion, on 21 November 1995 in Dayton (United States), of the General Framework Agreement for Peace in Bosnia-Herzegovina and expresses the firm hope that this agreement will mark a final end to the most tragic conflict in Europe since the second world war.

2. The Assembly points out that, throughout the territory of the former Yugoslavia, almost four million people have left their homes since 1991, only a small proportion of whom have been able to return. To a large extent, their homes have been either totally destroyed or looted and burnt. In any case, all these refugees and displaced persons have the right to return to their original homes and to recover their property or to receive compensation for the loss of it.

3. Such returns are an essential element of reconstruction, but they must be voluntary, gradual and orderly. There should be no risk of harassment, intimidation, persecution or discrimination on any grounds such as ethnic origin, religious belief, political or other opinion for those who return. Their safety and human rights must be guaranteed and, in particular, nobody must be forced to return to dangerous places or those lacking any basic infrastructure.

4. The Assembly warns against a hasty return of huge numbers of refugees and displaced persons, since it considers that proceeding in this way would be likely to destabilise the situation and even to give rise to renewed fighting.

5. The deployment of joint police forces (comprising members of the different ethnic groups) could contribute to the establishment of confidence and help avoid acts of revenge.

6. The conclusion of the Agreement on Refugees and Displaced Persons which is appended to the Dayton Agreement (Annexe 7) is of particular importance. The Assembly particularly welcomes the fact that this agreement, like those on the constitution (Annexe 4) and on human rights (Annexe 6), recognises the authority and expertise of the Council of Europe, which is called upon to appoint some of the members of the bodies set up by the agreements.

7. With regard to Bosnia-Herzegovina, it is important to give wide publicity to the existence of the protection mechanisms established by the Dayton Agreement, in particular the Human Rights Ombudsman and the Human Rights Chamber, as well as the Commission for Displaced Persons and Refugees.

8. A lasting reconciliation in the former Yugoslavia will not be possible without the economic and social development of the countries of the region, particularly Bosnia-Herzegovina, the worst affected by the conflict. Material reconstruction must go hand-in-hand with the restoration of the country's social fabric and the setting up of a civil society. Moreover, the psychological aspect should not be neglected. Means should be made available to the medical profession to help the population, and in particular the children, recover from the harrowing experience of the war.

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1. Assembly debate on 24 January 1996 (5th Sitting) (see Doc. 7440, report of the Committee on Migration, Refugees and Demography, rapporteurs: Mrs Robert and Mr Iwinski; Doc. 7470, opinion of the Political Affairs Committee, rapporteurs: MM. Blœtzer and Van der Linden; and Doc. 7472, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mrs Gelderblom-Lankhout). Text adopted by the Assembly on 24 January 1996 (5th Sitting).

9. There should be no discrimination against returning refugees and displaced persons with respect to conscription into military service. Positive consideration should be given to requests for exemption from military service on the basis of individual circumstances in order to enable returnees to rebuild their lives. Provision should be made for alternative service in the reconstruction process.

10. The Assembly draws attention to the crucial role played by women to ensure the survival of the population during the war and stresses the need to give them an essential place in the process of reconstruction and the re-establishment of a civil society, and to support them both nationally and internationally.

11. The Assembly stresses that neither the return of refugees and displaced persons nor stable peace can be reached without guaranteeing and protecting the rights of national minorities.

12. In cases where the return of refugees is not possible, the authorities have to avoid - in any decisions on where to locate the refugees - changes in the region's ethnic composition.

13. Even after the final re-establishment of peace and the implementation of the reconstruction programmes, assistance to refugees and displaced persons will have to continue for a certain length of time. There should be no conditions attached to this humanitarian aid, unlike assistance in the economic sphere, which should be conditional not only upon the setting up of a market economy, but above all upon respect for human rights, including the creation of conditions for the return of refugees, the prosecution of perpetrators of crimes and co-operation with the International Criminal Tribunal for the Former Yugoslavia. Moreover, humanitarian and reconstruction assistance should also be given to the local population in order to avoid tensions between those who stayed and those who return.

14. Acts aiming at the destruction of evidence of war crimes, such as the concealment of mass graves, should be prevented. The Multinational Military Implementation Force (IFOR) should be given the mandate to ensure this and to provide protection for international investigations such as those carried out under the instructions of The Hague tribunal.

15. The Assembly considers that humanitarian assistance should reach all refugees in equal proportions regardless of their ethnic group or the state in which they find themselves.

16. The Council of Europe is well placed to make an extensive contribution to reconstruction in the fields where it has expertise, particularly by assisting with the drafting of legislation relating to the rights of minorities and to citizenship, in the setting up of democratic institutions, in the fields of education, youth and health, in the operation of independent media, the restoration and protection of the natural and cultural heritage, and so on.

17. The renewal of trust among various population groups divided by four years of war requires the presence on the spot of international human rights observers. The Council of Europe, already present through its local democracy embassies, should place observers on the spot, possibly in co-operation with other competent organisations.

18. The Assembly welcomes the recent approval by the Committee of Ministers of the implementation of urgent measures for reconstruction and democratic institution-building in Bosnia-Herzegovina and in Croatia and urges the Committee of Ministers to make further contributions to the reconstruction process in these countries as a matter of urgency.

19. The Assembly therefore recommends that the Committee of Ministers:

19.1. continue and intensify the Council of Europe programmes for reconstruction in the former Yugoslavia, set up a specific structure responsible for implementation and invite member states to contribute to its financing, recognising that the implementation of the reconstruction programme requires respect for and realisation of human rights including rights of national minorities, the maintenance of the ethnic composition of the region and the establishment of a market economy;

19.2. continue the official dialogue with the Office of the United Nations High Commissioner for Refugees with a view to co-ordinating the Council of Europe's contribution to the implementation of the repatriation plan for Bosnia-Herzegovina;

19.3. ask the Social Development Fund to play an active part in the international negotiations relating to reconstruction in the former Yugoslavia and to emphasise on those occasions its capacity for action in the social sphere;

19.4. consider the possibility, subject to the bona fide implementation by the Federal Republic of Yugoslavia (Serbia and Montenegro) of the Dayton Agreement and its positive response to the OSCE's demand to re-establish its missions in Kosovo, Sandjak and Vojvodina, of inviting representatives of the Federal Republic of Yugoslavia (Serbia and Montenegro) to meetings organised by the Council of Europe on subjects concerning that country directly;

19.5. call upon the Federal Republic of Yugoslavia (Serbia and Montenegro) and Croatia to adopt an amnesty for deserters;

19.6. ask the Government of Croatia:

a. to comply fully and immediately with the demands made by the United Nations Security Council on 8 January 1996;

b. to take all necessary measures in order to guarantee the safety and human rights of the Serb population remaining in Croatia, and in particular in "Krajina", to facilitate the return of people who have left this region and to allow them, through a specific procedure established by law, to effectively exercise their rights to recover their property or to receive compensation for it;

c. to make every effort to ensure the prosecution of perpetrators of crimes and to fully co-operate with the International Criminal Tribunal for the Former Yugoslavia;

d. to authorise the presence on its territory, and particularly in the regions formerly under Serb control, of an OSCE mission, as well as of other international human rights observers and to create conditions in which they are able to carry out their mission properly;

e. to urgently take the necessary measures to improve the living conditions of Bosnian refugees in the Kupljensko camp and not to forcibly repatriate these refugees;

19.7. ask the authorities of Bosnia-Herzegovina to fully co-operate with and facilitate the task of any international human rights monitors and other supervisory bodies established by the Dayton Agreement, as well as the International Criminal Tribunal for the Former Yugoslavia;

19.8. invite the member states:

a. to contribute to the financing of the Council of Europe's activities in the former Yugoslavia, through the establishment of a voluntary fund for action in Bosnia-Herzegovina;

b. to continue to provide, bilaterally or through international organisations and non-governmental organisations (NGOs), humanitarian assistance for the former Yugoslavia;

c. to submit to the Social Development Fund of the Council of Europe, and to co-finance, practical reconstruction projects in the former Yugoslavia;

d. to give support to the International Committee of the Red Cross (ICRC) for the implementation of the tasks conferred on it by the Dayton Agreement, namely to organise the liberation of prisoners as early as possible and to clarify the fate of missing persons;

e. to fully co-operate with and support the work of the International Criminal Tribunal for the Former Yugoslavia;

19.9. invite the Commission of the European Communities:

a. to continue to provide humanitarian assistance in the former Yugoslavia, in co-operation with non-governmental organisations;

b. as rapidly as possible to conclude co-operation agreements with Croatia, Bosnia-Herzegovina, "the former Yugoslav Republic of Macedonia" and the Federal Republic of Yugoslavia (Serbia and Montenegro).