



Recommendation 1901 (2010)¹

Final version

Solving property issues of refugees and internally displaced persons

Parliamentary Assembly

1. Referring to its [Resolution 1708 \(2010\)](#) on solving property issues of refugees and internally displaced persons, the Parliamentary Assembly considers that for both refugees and internally displaced persons (IDPs), the loss of homes and land presents a serious obstacle to achieving durable solutions in post-conflict situations and to restoring justice. Legal remedies against such loss are an essential component for restoring the rule of law in post-conflict situations. Such remedies, including the relevant redress and the mechanisms and procedures through which such redress is sought and implemented, are directly linked to stability, reconciliation and transitional justice and are therefore indispensable elements for any constructive peace-building strategy.
2. The restoration of rights to and physical possession of property through restitution, or the provision of equivalent property or value through compensation, are essential forms of redress. The failure to provide such redress perpetuates the displacement of over 2.5 million people in Europe, particularly in the North and South Caucasus, the Balkans and the eastern Mediterranean and constitutes a breach of their human rights.
3. The Assembly therefore recommends that the Committee of Ministers instruct the relevant body of the Council of Europe to:
 - 3.1. undertake a study that would examine existing standards and practice related to redress for the loss of access and rights to housing, land and property in favour of refugees and IDPs in European post-conflict settings, and the procedures and mechanisms with which such redress is sought and implemented. IDPs and refugees should be fully involved in the study. The study should provide the basis for detailed guidelines and should focus on the following issues of particular relevance in the European context:
 - 3.1.1. the nature of the obligation to provide restitution, the specific circumstances under which restitution may be deemed impossible and the criteria for deeming what level of compensation is adequate in such cases;
 - 3.1.2. the modalities of providing redress for the loss of de facto possessions not formally recognised in law prior to displacement;
 - 3.1.3. the modalities of providing redress for the loss of occupancy and tenancy rights;
 - 3.1.4. criteria for ensuring rapid, accessible and effective procedures for claiming redress;
 - 3.1.5. further measures of reparation, assistance and redress necessary to ensure that restitution procedures are effective and provide redress;

1. *Assembly debate* on 28 January 2010 (8th Sitting) (see [Doc. 12106](#), report of the Committee on Migration, Refugees and Population, rapporteur: Mr Poulsen). *Text adopted by the Assembly* on 28 January 2010 (8th Sitting).



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3.2. develop detailed guidelines on the basis of the aforementioned study on how to provide redress for conflict-related loss of access and rights to housing, land and property in the European context, taking into account the United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons (the Pinheiro Principles) and Council of Europe instruments, as well as other international human rights standards and humanitarian law.

4. The Assembly reiterates its recommendation to the Committee of Ministers to establish a new permanent committee within the Council of Europe with a mandate to examine issues concerning asylum and IDPs to replace the Ad hoc Committee of Experts on the Legal Aspects of Territorial Asylum, Refugees and Stateless Persons (CAHAR).