



Doc. 11804

27 January 2009

Protecting the human rights of long-term displaced persons in Europe

Motion for a recommendation

tabled by Ms Corien W.A. JONKER and other members of the Assembly

This motion has not been discussed in the Assembly and commits only those who have signed it

The 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 Europe¹. It has consistently called on governments to seek durable solutions for the return 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 1998 UN Guiding Principles of Internal Displacement.

In 2006, at the instigation of the Assembly's [Recommendation 1631 \(2003\)](#), the Committee of Ministers adopted a set of 13 recommendations on IDPs, which underline the binding obligations undertaken by member states. Regrettably, since the Assembly's latest Recommendation, the situation of IDPs in Europe has hardly changed.

An estimated 2.5-2.8 million IDPs remain displaced in Europe, 99% of whom fled their homes as many as 15 to 25 years ago as a result of conflicts arising from rejected independence claims and territorial disputes. Only a quarter of all IDPs have found a durable solution to their displacement, mostly in the Balkans, and most of them have settled elsewhere than their places of origin.

The majority of the displaced live in destitution, struggle to enjoy their rights and are marginalised by disregard or for failure to protect their human rights, in particular economic, social and cultural rights.

Many governments in Europe still do not exercise effective control over their entire territory because of the lack of resolution of the conflicts on their territory. The resulting parallel legal systems, stalled peace negotiations, continued insecurity and the absence of organised reconciliation mechanisms, limit IDPs' access to their rights and obstruct their return. The Council of Europe must contribute more effectively towards the settlement of the protracted conflicts in Europe as well as towards creating sustainable conditions for a safe return of IDPs. No real solutions can be envisaged for IDPs as long as the conflicts linger on.

On the other hand, IDPs should not be used as political pawns. In the absence of political settlements, (temporary) integration must not be discouraged. Local integration is not necessarily incompatible with return. Also, governments should not deny the scale of displacement in an effort to portray the situation as solved and direct international attention elsewhere.

1. These include: Armenia, Azerbaijan, Bosnia and Herzegovina, Croatia, Cyprus, Georgia, "the former Yugoslav Republic of Macedonia", Moldova, Russia, Serbia and Turkey.



Governments retain the primary responsibility for guaranteeing rights to their citizens including IDPs. Despite being displaced, IDPs are citizens of the country they have not left and as such are fully entitled to 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 efforts.

Enabling the displaced to lead a normal life and protecting their right to return are not mutually exclusive. Rather, people who are in control of their lives and who are not hampered by continuing rights violations are more likely to go back and rebuild than are individuals or communities who have been marginalised and suffer from dependency syndrome.

The right of IDPs to choose between return to their homes, local integration at the site of displacement, or resettlement to another part of the country must be respected. That choice must be voluntary and informed; the authorities have the responsibility to enable conditions for all three to be viable options.

Neglecting the interests of IDPs carries a real political risk that the frozen conflicts associated with them can re-ignite at any time. The brief war between Georgia and Russia last year was a sinister reminder that continued international indifference to long-term displacement situations can lead to renewed conflict, significant loss of life and the displacement of many more people from their homelands.

A generalised impunity for human rights violations suffered by many IDPs is another danger. Very few cases have been brought by IDPs either in national courts or at the level of the European Court of Human Rights. This is in part because of the lack of awareness by IDPs of their rights and limited legal assistance available to them.

In the light of the above, the Assembly recommends the Committee of Ministers,

as regards political solutions, to:

- step up efforts aimed at the peaceful settlement of the conflicts in the region with a view to guarantee return of all refugees and displaced persons to their places of origin if they so wish;
- work with respective governments and international actors towards creating durable solutions for the displaced, with a particular focus on planning for returns and for property restitution or compensation;
- fight against the impunity for violations suffered by many IDPs; urge member states to investigate and bring to justice the perpetrators of human rights violations and crimes committed during the various armed conflicts that have led to displacements;

as regards observance of international protection standards, to:

- assess the progress made by member states concerned in accomplishing the various Assembly recommendations on protecting IDPs' rights;
- urge the member states to rigorously observe the Guiding Principles on Internal Displacement and Committee of Ministers Recommendation (2006)06, include their provisions into national legislation if this has not yet been done; and demonstrate a strong will to implement domestic and international legal and normative frameworks;
- consider elaborating a binding European Convention for the Protection and Assistance of IDPs in Europe, upon the example of the Draft African Union Convention on the same subject;
- raise awareness on the existing protection mechanisms under the European Convention on Human Rights and the collective complaint mechanism provided by the European Social Charter;

as regards the protection of rights of IDPs, to:

- review national policies with a view to assuring protection of internally displaced persons;
- call upon the member states to:
 - ensure the safety and security of IDPs, particularly at locations of return;
 - fully respect the voluntary nature of return, integration or resettlement;
 - restitute property and repair or rebuild houses and basic infrastructure;
 - develop social welfare systems that can benefit IDPs in need of assistance;
- inform and involve IDPs on all relevant steps, and to the extent possible, provide them the opportunity to participate in decisions affecting them;

- support national human rights institutions in their capacity to encourage governments to address the limited access of IDPs to their rights;
- encourage governments to support accessible legal assistance programmes.

Signed (see overleaf)

Signed²:

JONKER Corien W.A., Netherlands, EPP/CD
ACKETOFT Tina, Sweden
AGRAMUNT Pedro, Spain, EPP/CD
BÉTEILLE Laurent, France, EPP/CD
BRANDE Luc, Van den, Belgium, EPP/CD
BRASSEUR Anne, Luxembourg
BRAUN Márton, Hungary, EPP/CD
DARCHIASHVILI David, Georgia, EPP/CD
DÄUBLER-GMELIN Herta, Germany
EÖRSI Mátyás, Hungary, ALDE
ETHERINGTON Bill, United Kingdom
GARDETTO Jean-Charles, Monaco, EPP/CD
GAUTIER Gisèle, France, EPP/CD
GREENWAY John, United Kingdom
GREFF Claude, France, EPP/CD
GROSS Andreas, Switzerland, SOC
HAIBACH Holger, Germany
HARUTYUNYAN Davit, Armenia, EDG
HOLOVATY Serhiy, Ukraine, ALDE
HÖRSTER Joachim, Germany, EPP/CD
HOSTALIER Françoise, France, EPP/CD
JAZŁOWIECKA Danuta, Poland
KOX Tiny, Netherlands, UEL
LINDBLAD Göran, Sweden, EPP/CD
LINDEN René, van der, Netherlands
McCAFFERTY Christine, United Kingdom
MEALE Alan, United Kingdom, SOC
MENDES BOTA José, Portugal, EPP/CD
MIGNON Jean-Claude, France, EPP/CD
NEUGEBAUER Fritz, Austria, EPP/CD
OJULAND Kristiina, Estonia
OMTZIGT Pieter, Netherlands
PRESCOTT John, United Kingdom, SOC
REISS Frédéric, France, EPP/CD
SCHNEIDER André, France, EPP/CD
SEYIDOV Samad, Azerbaijan, EDG
VIS Rudi, United Kingdom
VITALI Luigi, Italy, EPP/CD
WILLE Paul, Belgium
WILSHIRE David, United Kingdom, EDG

2. ALDE: Alliance of Liberals and Democrats for Europe
EDG: European Democrat Group
EPP/CD: Group of the European People's Party
SOC: Socialist Group
UEL: Group of the Unified European Left