



Doc. 12853

25 January 2012

Enforced population transfer as a human rights violation

Committee Opinion¹

Committee on Migration, Refugees and Displaced Persons

Rapporteur: Mr Tuğrul TÜRKEŞ, Turkey, European Democrat Group

A. Conclusions of the committee

1. The Committee on Migration, Refugees and Displaced Persons supports the report prepared by the Committee on Legal Affairs and Human Rights and congratulates its rapporteur, Mr Egidijus Vareikis, on having brought to the Parliamentary Assembly's attention the issue of enforced population transfer as a human rights violation.
2. The committee considers that there is the need to make reference in the draft resolution to deportations before and during the Second World War. Therefore, the committee proposes the following amendment.

B. Proposed amendment to the draft resolution

Amendment A (to the draft resolution)

In the draft resolution, replace paragraph 5 with the following paragraph:

"Deportation on political and ethnic grounds of groups of populations occurred before, during and after the Second World War and their consequences still remain".

C. Explanatory memorandum by Mr Türkeş, rapporteur for opinion

1. The 20th century was marked by an unprecedented scale of involuntary population transfers during the formation of nations, especially in central, south-eastern and eastern Europe. This problem became a key human rights and humanitarian challenge since it concerns the fate of millions of people. Therefore, the Committee on Migration, Refugees and Displaced Persons supports the report prepared by the Committee on Legal Affairs and Human Rights and congratulates its rapporteur, Mr Vareikis, on having brought to the Assembly's attention the issue of enforced population transfer as a human rights violation.
2. The rapporteur agrees with Mr Vareikis that any form of population transfer, in Europe and elsewhere in the world, should be condemned. He also supports the idea of the promotion of the adoption of an international, legally binding instrument outlawing all forms of enforced population transfer.
3. The victims of enforced population transfer have two principal rights. The first is "the right to return in safety and dignity" to their former homes or places of residence, as provided in numerous resolutions of the United Nations General Assembly, Security Council and Sub-Commission on the Promotion and Protection of Human Rights.² The second is the right to restitution of property or, if this is no longer possible, the right to

1. Reference to committee: [Doc. 11982](#), Reference 3604 of 02 October 2009. Reporting committee: Committee on Legal Affairs and Human Rights. See [Doc.12819](#). Opinion approved by the committee on 24 January 2012.



compensation, as laid down in the United Nations General Assembly Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.³

4. In this respect, the committee would like to recall its work on the right to restitution of property, and in particular Assembly [Resolution 1708 \(2010\)](#) and [Recommendation 1901 \(2010\)](#) on solving property issues of refugees and internally displaced persons, adopted in January 2010. These texts focused on the issue of the restoration of rights to and physical possession of property, through restitution or compensation, as essential forms of redress.

5. In the above resolution, the Assembly stated that “restitution is the optimal response to the loss of access and rights to housing, land and property because, alone among forms of redress, it facilitates choice between three 'durable solutions' to displacement: return to one's original home in safety and dignity; local integration at the site of displacement; or resettlement either at some other site within the country of origin or outside its borders”.

6. As far as the population exchange in Cyprus is concerned, Mr Vareikis refers only to the Greek Cypriots and their rights to property. The committee would like to recall that in Cyprus there was a voluntary population exchange agreement, which was concluded in 1975 in Vienna under the auspices of the United Nations, with Turkish Cypriots moving to the northern part of the island and Greek Cypriots opting to move to the southern part of the island, the consequences of which affected both communities.⁴

7. As regards the right of victims of forced population transfers to return to their former homes or places of residence, the implementation of this right has been highly problematic. For example, despite a large number of United Nations Security Council resolutions concerning the return of Bosnians, Croats and Serbs of the Krajina region to their homes, under the Dayton Accords only few people have been able to return. However, the example of some 300 000 Crimean Tatars who had successfully returned from Uzbekistan and Kazakhstan to Ukraine since 1990 proves that the implementation of this right is possible when there is international solidarity and political will.

8. The draft resolution highlights the problems of deportations after the Second World War, in particular in relation to the former communist countries. The rapporteur finds it difficult to bring up the Second World War without mentioning deportations both during and before it.

9. In the light of the above comments, the Committee on Migration, Refugees and Displaced Persons would like to introduce one amendment to make reference in the draft resolution to deportations before and during the Second World War.

2. Resolution 2002/30 of 15 August 2002 (UN Doc E/CN.4/SUB.2/RES/2002/30) and Resolution 2005/21 of 11 August 2005 (UN Doc E/CN.4/SUB.2/RES/2005/21).

3. United Nations General Assembly Resolution 60/147 (21 March 2006).

4. The property issue is one of the chapters of the UN-sponsored negotiation process carried out in Cyprus. In the absence of a comprehensive settlement, claims in relation to properties in the northern part of the island could be referred to the Immovable Property Commission (IPC), which was found to be an effective domestic remedy by the European Court of Human Rights decision in *Demopoulos and others v. Turkey* of 5 March 2010. To date, no similar remedy or mechanism exists for the Turkish Cypriot properties left in the south.

Appendix – Dissenting Opinion by Ms Athina Kyriakidou (Cyprus, SOC), member of the Committee on Migration, Refugees and Displaced Persons⁵

1. The subject on which Mr Türkeş was authorised to prepare an opinion on behalf of the Committee on Migration, Refugees and Displaced Persons concerns a most serious human rights issue, affecting the lives of a great number of people, both in Europe and worldwide. It is of utmost importance that the facts stated therein by the rapporteur reflect the actual state of affairs.
2. In this respect, paragraph 6 of the explanatory memorandum undermines the impartiality and balance of the draft opinion. In the case of Cyprus, Mr Vareikis states, in paragraph 31 of the main report on the issue, that because of the Turkish invasion of the northern part of Cyprus in 1974, there was a forceful expulsion of approximately 180 000 Greek Cypriots from the northern, occupied part of Cyprus. This is an undisputed historical fact. It is clearly recorded in various resolutions and recommendations of the Parliamentary Assembly and in United Nations General Assembly and Security Council resolutions, as well as in decisions of the European Court of Human Rights, as also underlined in Mr Vareikis's report.
3. The Vienna Agreement, which Mr Türkeş mentions in paragraph 6 of his opinion, was concluded a year after the 1974 invasion, in an attempt to regulate humanitarian issues, such as that of the remaining Greek Cypriots enclaved who would wish to move to the free areas of Cyprus and be reunited with their families. This also applied to those Turkish Cypriots who continued to live in the free areas of the Republic and would possibly wish to move to the occupied part of Cyprus. However, the enforced population uprooting as such, for the near entirety of Greek Cypriots who lived in the northern area of Cyprus, occupied by Turkish troops in 1974, took place there and then. The Turkish Cypriots in the southern part of Cyprus, which was not occupied by Turkish troops, were also forced to move, almost en bloc, owing to Turkey's threats that it would invade the rest of the island, too, if its demands in that respect were not met.
4. For the sake of clarity, not a single doubt should be cast in anyone's mind that the mention of enforced population transfer refers precisely to the events of 1974. The Vienna Agreement, which Mr Türkeş selectively chooses to mention in his opinion, took place in 1975 and was a direct consequence of the 1974 invasion and not an isolated event as it is presented. For the purpose of this opinion, the reference to the Vienna Agreement is thus both misleading and irrelevant.
5. It is clearly documented how the Greek Cypriot population enclaved in the Karpass Peninsula dwindled from 20 000 after the invasion to just a little more than 300 elderly people today, who are not able freely and fully to exercise their cultural, educational and religious rights. Sadly enough, the Vienna Agreement has been honoured in its breach rather than its observance.
6. Furthermore, and in connection to footnote 4 of the said opinion, I would like to stress that the Turkish Cypriots have never been denied by the Government of the Republic of Cyprus their rights pertaining to their properties situated in the free areas of the republic. On the other hand, Greek Cypriot refugees have been denied this right, as has been repeatedly adjudicated by the European Court of Human Rights. A case in point remains *Loizidou v. Turkey*, whereby the Court awarded Titina Loizidou compensation for the loss of use of her property and her right to return to her property. Unfortunately, up until this very day, this right of Ms Loizidou is still being denied by Turkey, in utter contempt of the Court's decision. Restitution of homes and property remains a fundamental human right and the preferred option for redress, as was also stated in Assembly [Resolution 1708 \(2010\)](#) and [Recommendation 1901 \(2010\)](#) on solving property issues of refugees and displaced persons.

5. Rule 49.4 of the Assembly's Rules of Procedure: "The report of a committee shall also contain an explanatory memorandum by the rapporteur. The committee shall take note of it. Any dissenting opinions expressed in the committee shall be included therein at the request of their authors, preferably in the body of the explanatory memorandum, but otherwise in an appendix or footnote."