Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 1510 (2001)[1]

Humanitarian situation of returnees to Kosovo

Parliamentary Assembly

1. The return of refugees and internally displaced persons (IDPs) to Kosovo has been one of the major preoccupations for the population of Kosovo and for all the international actors involved. Enormous progress has been achieved in assisting hundreds of thousands of mainly ethnic Albanians to settle back in Kosovo. More than 900 000 have returned since the end of the conflict, of which nearly 200 000 persons returned voluntarily in organised movements. Altogether over 80 000 persons returned in the year 2000 alone. Many others came back independently.

2. The return of refugees and IDPs, which has a considerable impact on all aspects of society in Kosovo, in particular on social welfare, education and training, health care, employment and security, is likely to remain a major concern throughout the year 2001.

3. After the significant attempts which had been made last year to encourage, accelerate and even forcibly return Kosovo Albanian refugees to Kosovo, host countries had received, in autumn 2000, appeals from the United Nations Interim Administration in Kosovo (Unmik) to decelerate or even to suspend temporarily this process in view of the limited reception capacity that existed in Kosovo at that time.

4. The Assembly is concerned that, despite the fact that in view of the generally precarious security situation the UNHCR had, in turn, also requested host countries to abstain from forcibly returning Albanian populations to Kosovo, forced returns to Kosovo still continued. Approximately 12 533 persons have been forcibly returned between January and the end of December 2000. From 1 January to 24 March 2001, according to the Unmik border police, 1 388 forced returns were registered at Pristina airport. Many others were encouraged to leave the host countries by receiving allowances for leaving the country at a fixed date.

5. The Assembly fully shares the views of the Unmik expressed in its "Policy paper on the repatriation of Kosovo Albanians" and supports its concerns that all repatriation programmes be designed as co-ordinated, phased and orderly movements. As a matter of principle, adequate accommodation should be ensured for all returnees to Kosovo. The return of members of vulnerable groups for whom assistance is currently unavailable should be avoided as well as any precipitate action that might trigger an unmanageable influx of returnees.

6. The Assembly therefore wishes to closely monitor the humanitarian situation which Kosovo Albanian returnees find upon arrival in Kosovo. Successful return is not limited to the existence of shelter only and, even after considerable progress made, Kosovo is still in the process of building up its social, education and public services networks. In December 2000, the unemployment rate was estimated at 65%. Enormous goals have indeed been achieved with regard to their return, but the situation remains fragile, and certainly inadequate for unco-ordinated returns of Kosovo Albanians who used to live in an area where they represent a numerical minority.

7. The Assembly is deeply concerned over the security of those returnees belonging to the non-Albanian communities. Kfor has to guard the Serb, Roma, Ashkaelia and Egyptian communities 24 hours a day at the same time that violence towards minority communities has increased. Moreover, it appears that the attacks

1. Assembly debate on 25 April 2001 (12th Sitting) (see Doc. 9007, report of the Committee on Migration, Refugees and Demography, rapporteur: Mr Connor). Text adopted by the Assembly on 25 April 2001 (12 Sitting).

are now more organised, co-ordinated and targeted. Under these present circumstances, their voluntary return can certainly not be promoted and encouraged. The fundamental right of IDPs to return to their homes of origin, is far from being reachable.

8. Despite the impressive deployment of protection and assistance – in and around the Serb enclaves and Roma, Ashkaelia, Egyptian neighbourhoods throughout Kosovo – as well as the efforts made by the international community and some of the concerned communities to find sustainable solutions for a peaceful coexistence, the ongoing violence and the persisting severe limitations on freedom of movement, access to income and to basic services for persons living in these areas, do not currently allow their populations to live in security and dignity.

9. The Assembly therefore fully shares the views of the Joint Committee on the Return of Kosovo Serbs expressed in its "Framework for Return 2001", which clearly works out the principles for spontaneous return of IDPs, such as their fundamental right to return to their places of origin in conditions of safety and dignity, including freedom of movement. Furthermore, return should be undertaken on the basis of the comprehensive assessment of individual potential return locations and should be directed to all geographic areas in Kosovo. The return of minorities must also be low profile, transparent and in an orderly manner.

10. The Assembly recommends that the Committee of Ministers urge the member states of the Council of Europe:

a. to generally abstain from any precipitate return actions which may generate unmanageable and counterproductive influxes of returnees to Kosovo;

b. to provide asylum seekers from Kosovo with full access to asylum procedures and to consider and determine their refugee claims on an individual basis in accordance with the 1951 Geneva Convention;

c. to recognise that, for asylum applicants originating from Kosovo, internal displacement in Serbia and Montenegro does not offer, at the moment, an acceptable relocation alternative;

d. to refrain from any forced return of refugees to Kosovo as well as from any deportation of persons with special protection needs such as persons who have experienced or witnessed torture or incarceration during the years of crisis and conflict and those who have been traumatised by their experiences of human rights violations and sexual violence;

e. to refrain from any forced return of refugees to Kosovo as well as from any deportation of persons belonging to vulnerable groups, such as persons with serious health or mental problems, the severely handicapped, children who have not completed the school year or unaccompanied minors or persons in need of special social assistance;

f. to refrain, in any case, from forced return of minorities and not to directly or indirectly induce or encourage their return;

g. to make adequate funding available for the reconstruction of the social welfare system, which, in the transition phase from emergency to development, will have increased responsibilities regarding returnees to Kosovo;

h. to consider the voluntary return of all refugees and IDPs, regardless of their ethnic origin, as the basis for achieving sustainable peace in Kosovo.

11. The Assembly urges the international organisations, the administrative and military structures present in Kosovo, as well as local organisations:

a. to continue their co-operation and information sharing in order to further contribute to a clear assessment of the reception capacity of Kosovo Albanians and to keep up the smooth process of their return;

b. to regard the environment for a safe and voluntary minority return as one of the most urgent priorities ahead and therefore to address and to improve the existing conditions which, at the moment, prevent return – and create new IDPs – rather than promote it;

c. to set the context for a constructive, participative inter-ethnic dialogue.

12. The Assembly further recommends that the Committee of Ministers:

a. ensure the continuation of the strong involvement and commitment of the Council of Europe in the process of the democratic reconstruction of Kosovo;

b. increase its political support for the Council of Europe Office in Pristina and provide its secretariat with adequate human and financial resources and the mandate to follow, in close co-operation with the UN administration and the humanitarian organisations, such as the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM), as well as local organisations, the process of return of all refugees to Kosovo;

c. promote the principle of phased, co-ordinated and, above all, voluntary return in dignity and safety of the refugees and the IDPs.

13. The Assembly urges the Committee of Ministers and the member states of the Council of Europe to recognise that forced return of individuals at risk, such as is the case for various non-Albanian populations of Kosovo, potentially violates Article 33 of the 1951 Geneva Convention relating to the Status of Refugees, as well as Articles 2 and 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms.