



## Recommendation 1802 (2007)<sup>1</sup>

# Situation of longstanding refugees and displaced persons in South East Europe

Parliamentary Assembly

1. The Parliamentary Assembly has been following the humanitarian situation of refugees and displaced persons in South-Eastern Europe since the very beginning of the armed conflict in the region. The Assembly refers in particular to its [Recommendation 1588 \(2003\)](#) on population displacement in South-Eastern Europe: trends, problems, solutions; and its [Recommendation 1633 \(2003\)](#) on forced returns of Roma from the former Federal Republic of Yugoslavia, including Kosovo, to Serbia and Montenegro from Council of Europe member states.
2. Twelve years after the war in Bosnia and Herzegovina and Croatia, and eight years after the armed conflict in Kosovo, too many refugees and internally displaced persons (IDPs) still remain in the region – 120 000 refugees and 383 000 IDPs – in total more than half a million displaced people. Croatia has 2 500 refugees and 4 000 IDPs; after re-registration Bosnia and Herzegovina has 10 000 refugees and 135 000 IDPs; Serbia has the largest number, with 98 500 refugees and 228 000 IDPs, including 21 000 IDPs in Kosovo alone; Montenegro has 6 900 refugees and 16 200 IDPs; and “the former Yugoslav Republic of Macedonia” has 2 000 refugees, mostly ethnic minorities from Kosovo (Roma, Ashkalija and Egyptian).
3. These figures often represent the most vulnerable persons, including elderly people without family support, traumatised survivors of atrocities, sick and disabled persons, single mothers, members of national minorities or persons in need of witness protection, some of whom still remain in collective centres, and most of whom have been neglected in recent years as a result of a lack of local resources and humanitarian aid.
4. The Assembly insists that providing an adequate response to the needs of refugees, returnees and IDPs and enacting a government strategy to find durable solutions for their voluntary and sustainable return or local integration should be much higher on the political agenda in all countries of the region. In order to achieve these goals, the governments should set out clear legal and institutional frameworks and necessary financial resources. The criteria for priority assistance should be based on vulnerability.
5. It is of concern that some returnees and IDPs still fail to regularise their status due to the lack of valid documents. The lack of status precludes them from access to their socio-economic rights.
6. Although de jure statelessness has generally been avoided through the application of the continuation of republican citizenship (under the former Socialist Federal Republic of Yugoslavia), the exclusive application of this rule does not provide a reasonable solution for numerous former citizens of the Socialist Federal Republic of Yugoslavia who were living in other republics than those in which they had been registered to hold republican citizenship.
7. In “the former Yugoslav Republic of Macedonia” legislative changes were introduced in 2004, which facilitated the naturalisation of about 4 200 such citizens.

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1. Assembly debate on 27 June 2007 (24th Sitting) (see [Doc. 11289](#), report of the Committee on Migration, Refugees and Population, rapporteur: Mr Dendias). Text adopted by the Assembly on 27 June 2007 (24th Sitting).



8. The major impediment to integration is the fact that the acquisition of rights is generally based on the right to reside in a certain territory (status of residence). The Assembly is concerned that such legal frameworks which apply to most countries in the region do not take into account the specific vulnerable situation of refugees, returnees and IDPs.

9. Concerning refugees, the Assembly reiterates the importance of securing the conditions for their sustainable return or local integration in the area of displacement by transferring social security and pension rights, reconstructing damaged property, constructing alternative accommodation, executing rights of repossession and fair compensation of former occupancy/tenancy rights.

10. The Assembly therefore welcomes the regional co-operation between Croatia, Bosnia and Herzegovina, Serbia and Montenegro in the framework of the Sarajevo Process and urges the respective governments to rapidly resolve the two outstanding issues concerning Croatia – finding a fair settlement for the holders of terminated occupancy/tenancy rights and validation of working years (pension rights) spent in formerly occupied territories – and to adopt a regional implementation matrix.

11. In the absence of a binding international protection system, the responsibility for IDPs rests upon the governments in the region, which must ensure that IDPs have the same rights as other citizens. In Serbia and Montenegro, IDPs from Kosovo face numerous difficulties in exercising their basic civil, economic and social rights, including access to personal documents, property rights, health care, welfare assistance, adequate accommodation, and employment. Without special protection measures in place, IDPs do not have access to social services and sink deeper into poverty and exclusion. The Assembly insists that this vulnerable population should not be held hostage to future political settlements.

12. The situation of displaced Roma remains a particular concern, especially in the light of the many readmission agreements which have been signed recently with European Union member states. Most returnees face the situation of secondary displacement upon return. The Assembly therefore reiterates its concern that the readmission agreements do not clearly define the conditions for the reception of returned persons; they do not put any responsibility on the receiving state with regard to the reintegration of returnees; and they lack accompanying assistance programmes or funding towards durable integration.

13. It is crucial for the whole region to address the deep-rooted patterns of discrimination against members of ethnic minorities, which seriously undermine sustainable returns. The minority returns are particularly fragile in rural areas as a result of real and perceived security issues and discrimination, severe damage to property, lack of infrastructure and the inability to make a living from agriculture because of land repossession difficulties or the presence of mine fields.

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

14.1. urge the governments of Croatia, Bosnia and Herzegovina, Serbia, the United Nations Interim Administration Mission in Kosovo (UNMIK) and the Provisional Institutions of Self-Government (PISG) in Kosovo, the governments of Montenegro and “the former Yugoslav Republic of Macedonia” to:

14.1.1. implement the relevant international human rights instruments, and in particular the 1951 Convention relating to the Status of Refugees and the 1967 Protocol, the United Nations Guiding Principles on Internal Displacement and Recommendation Rec(2006)6 of the Committee of Ministers to member states on internally displaced persons, the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, the 1997 European Convention on Nationality and the 2006 Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession (CETS No. 200);

14.1.2. enact the national action plans for lasting solutions for refugees, returnees and internally displaced persons by setting out a clear legal and institutional framework and by providing the necessary financial resources;

14.1.3. simplify and speed up the process of status determination, with a view to facilitating local integration;

14.1.4. use the criteria for priority assistance which is based on vulnerability;

14.1.5. find lasting solutions for the most vulnerable groups of people who are accommodated in the collective centres;

14.1.6. facilitate access of refugees, IDPs and returnees to information on their rights under domestic law and to fully support, including financially, free legal aid and assistance provided by ombudspersons and local non-governmental organisations;

14.1.7. build capacities and undertake administrative, judicial and police reforms to facilitate local integration and voluntary return in safety and dignity, particularly with a view to guaranteeing equal rights and addressing the specific needs of minority populations;

14.1.8. pursue the process of reconciliation far more vigorously, especially in the areas of return, by fostering a political and cultural climate of respect, tolerance and non-discrimination and by prosecuting perpetrators of war crimes and inter-ethnic violence;

14.1.9. fully implement the provisions of the Council of Europe Framework Convention for the Protection of National Minorities (ETS No. 157), including the employment of persons belonging to minority populations in the public administration, the judiciary and the police, particularly in areas where there are minority returns;

14.1.10. support returns and local resettlement through the provision of adequate housing solutions, including reconstruction of damaged property, construction of alternative accommodation, execution of rights of repossession and fair compensation of former occupancy/tenancy rights;

14.1.11. give priority to economic revival, reconstruction of infrastructure and mine clearance in the return areas;

14.1.12. fully engage in bilateral and regional co-operation to resolve the outstanding issues related to refugees and IDPs;

14.2. call on the Office of the High Representative (OHR) to contribute vigorously to the process of reconciliation in Bosnia and Herzegovina by speeding up consensus building among the parties concerned;

14.3. with a view to strengthening political and economic stability in the region, urge the member states of the Council of Europe:

14.3.1. to continue to support the process of voluntary return and local integration with financial assistance and expertise;

14.3.2. to make voluntary contributions to the specific programmes of the Council of Europe which aim to strengthen the protection of human rights, the rule of law and democracy in the region;

14.3.3. in the framework of readmission agreements to refrain from large-scale returns of Kosovans whose requests for asylum have been refused until the conditions for their voluntary return in safety and dignity are achieved;

14.4. urge the European Union to:

14.4.1. maintain the political momentum in the region with a clear European integration perspective;

14.4.2. continue to support the process of voluntary return, including by establishing clear criteria and benchmarks to safeguard the rights and interests of returnees, and to support local integration with financial assistance and expertise;

14.4.3. financially support the specific programmes of the Council of Europe which aim to strengthen the protection of human rights, the rule of law and democracy in the region;

14.5. call on the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Organization for Security and Co-operation in Europe (OSCE) to maintain their regional and field presence in order to fulfil their advocacy and monitoring role, further assist building local capacities and raise awareness for the most pressing issues and needs among the donor/international community in the region.

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

15.1. ensure the continuation of Council of Europe presence and comprehensive activity in the region, inter alia, in the field of political co-operation and the monitoring process, in the field of legal co-operation (constitutional reforms, judicial reforms, capacity building, training), human rights, rights of national minorities, the protection of Roma, local democracy, social rights, migration and asylum policies, education and tolerance building, respect for cultural heritage and youth activities;

15.2. assist the authorities in the region to enact the national action plans for durable solutions to the problems of refugees and IDPs through:

15.2.1. the promotion of relevant international human rights standards, and in particular the 1951 Convention relating to the Status of Refugees and the 1967 Protocol, the United Nations Guiding Principles on Internal Displacement and Recommendation Rec(2006)6 of the Committee of Ministers to member states on internally displaced persons, the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, the 1997 European Convention on Nationality and the 2006 Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession;

15.2.2. monitoring and assistance programmes for the implementation of the Framework Convention for the Protection of National Minorities;

15.2.3. legal expertise on the restitution of property and occupancy/tenancy rights, taking into account the case law under the European Court of Human Rights.

16. The Assembly invites the Congress of Local and Regional Authorities to follow up its [Resolution 175 \(2004\)](#) on migration flows and social cohesion in South-East Europe: the role of local and regional authorities.

17. The Assembly invites the Commissioner for Human Rights to support the co-operation of ombudspersons and national human rights institutions in the region with a view to expanding their capacity, staffing and field presence to further assist refugees, returnees and IDPs to access their rights.

18. The Assembly calls on the Council of Europe Development Bank to step up its co-operation with the countries in the region with a view to financing more projects regarding refugees and IDPs, through loans, the Selective Trust Account funding and specific grants in co-operation with the UNHCR.