

INTRODUCTION

Globally, there currently are more than 40 million people who have been forced to leave their homes due to conflict or violence but who, unlike refugees, remain within their own country as «internally displaced persons» (IDPs)⁵. Millions more people are internally displaced every year as a result of disasters, whether natural or human-made, and other causes such as development projects. Internal displacement is a truly global crisis, occurring in all regions of the world.

— Council of Europe member states have not been immune from this global crisis. In recent decades, and particularly since the early 1990s, more than a quarter of the Council of Europe's 47 member states have experienced internal displacement due to armed conflict, including: Armenia, Azerbaijan, Bosnia and Herzegovina, Croatia, Cyprus (protracted displacement since 1974), the former Yugoslav Republic of Macedonia, Georgia, Moldova, Montenegro, Serbia, the Russian Federation, Turkey, and now Ukraine. Moreover, many of these countries plus several other Council of Europe member states, including Italy, Switzerland, and the United Kingdom, have experienced internal displacement due to natural disasters such as earthquakes, floods, and landslides. Human-made disasters, for instance at Chernobyl in 1986, also have caused internal displacement.

— In Ukraine, the occupation of Crimea in March 2014 and the outbreak the following month of conflict in the eastern regions of the country have caused mass displacement, both within the country and across borders. As of end December 2017, there are more than 1.49 million IDPs in Ukraine⁶, making Ukraine one of the largest IDP crises in the world today. In 2015, Ukraine produced the fourth highest number of new IDPs in the world, after Yemen, Syria and Iraq⁷.

— Responsibility for protecting, assisting, and finding solutions for IDPs lies first and foremost with the government of the country in which internal displacement is taking place. This well-established principle of international law is one of four core principles the Council of

5 Internal Displacement Monitoring Centre (IDMC), *Global Report on Internal Displacement, Grid 2017* (IDMC and Norwegian Refugee Council, 2016), p. 7.

6 Ministry of Social Policy of Ukraine, IDPs registration, available at: <http://www.msp.gov.ua>

7 IDMC, *Global Report on Internal Displacement, Grid 2016*, p. 10.

Europe «recommends that governments of member states be guided by when formulating their internal legislation and practice, and when faced with internal displacement». Specifically:

- ◆ Protecting IDPs and their rights as well as providing humanitarian assistance to them is a primary responsibility of the state concerned;
- ◆ The United Nations *Guiding Principles on Internal Displacement*⁸ and other relevant international instruments of human rights or humanitarian law apply to all IDPs, including persons displaced from their homes or places of habitual residence due to natural or man-made disasters;
- ◆ IDPs shall not be discriminated against because of their displacement. Member states should take adequate and effective measures to ensure equal treatment among IDPs and between them and other citizens. This may entail the obligation to consider specific treatment tailored to meet IDPs' needs;
- ◆ Particular attention shall be paid to the protection of persons belonging to national minorities and to the protection and assistance requirements of the most vulnerable groups in accordance with relevant international law standards⁹.

— In Ukraine, effectively addressing internal displacement therefore requires a robust and rights-based response by the Government. As the Council of Europe Commissioner for Human Rights emphasized in a letter to Prime Minister in June 2014, «the Ukrainian authorities must take the lead in this process and demonstrate their resolve in ensuring that IDPs receive all the protection they are entitled to under international law»¹⁰. The Government of Ukraine recognizes its responsibility in this regard and increasingly, albeit incrementally, has taken steps towards fulfilling this responsibility. In the initial days and weeks of internal displacement, civil society and other volunteer organizations were the ones very much at the forefront of responding to IDPs' emergency needs. Still several months into the crisis, when the UN Special Rapporteur on the Human Rights of Internally Displaced Persons visited

8 United Nations, *Guiding Principles on Internal Displacement*, UN doc. E/CN.4/1998/53/Add.2 (1998).

9 Council of Europe, Committee of Ministers, Recommendation (2006)6 to Member States on Internally Displaced Persons, adopted on 5 April 2006, paras. 1–4 [reordered]. [Hereinafter: Council of Europe, CoM, Rec on IDPs].

10 Council of Europe, Commissioner on Human Rights, Letter from Nils Mužnieks to Mr. Arseniy Yatsenyuk, Prime Minister of Ukraine, 27 June 2014, Ref: Comm/HR/IG/sf017–2014, CommR(2014)15.

the country, he observed: «Government representatives frequently state that Ukraine had been taken by surprise by the crisis and the subsequent high numbers of IDPs and that they were not experienced in dealing with internal displacement situations»¹¹. Returning to Ukraine two years later, in September 2016, the UN Special Rapporteur found that while the Government had since taken important steps, such as the adoption of a law on internal displacement and the establishment of a ministry for IDP issues, «much more needs to be done» and there was reason to «urge the Government to intensify its efforts to protect the rights of IDPs from the conflict»¹².

— In support of efforts towards an effective national response to internal displacement, the Government of Ukraine has sought technical assistance and advice on a number of issues. In particular, the Government as well as civil society regularly express interest in learning about how other countries have responded to specific challenges of internal displacement. To address this need, the Council of Europe, as part of its Action Plan for Ukraine 2015–2017, and more specifically as part of its project on «Strengthening the Human Rights of Internally Displaced Person in Ukraine»¹³, commissioned this guide.

Purpose of this guide:

— This publication aims to provide guidance to the Government of Ukraine and all other actors engaged in responding to internal displacement in Ukraine. More specifically, it seeks to do so by identifying measures undertaken by other member states of the Council of Europe to address a number of issues regarding internal displacement that currently are being faced also in Ukraine.

— Certainly, every context of internal displacement is unique and presents its own specific challenges; there is no such thing as a «one size fits all» approach. Even so, it can be instructive and useful to learn about – and to learn from – other experiences. Indeed, the Parliamentary Assembly of the Council of Europe has recommended that member states affected by internal displacement «share experiences and good practices on achieving durable solutions for IDPs»¹⁴. Similarly, PACE

11 United Nations, Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons: Mission to Ukraine, Chaloka Beyani, UN doc. A/HRC/29/34/Add.3 (2 April 2015), para. 74.

12 United Nations, Office of the High Commissioner for Human Rights, «Ukraine: UN Expert Calls for Comprehensive Strategy to address IDPs' Plight as Winter Closes In,» Press Release, 9 September 2016.

13 More information about the Council of Europe project is available at: <http://www.coe.int/en/web/kyiv/idps>

14 PACE, Recommendation 1877 (2009), Europe's forgotten people: protecting the human rights of long-term displaced persons, available at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17759&lang=en>

has recommended that the Council of Europe «bring together representatives of IDPs from across Europe in order for them to share and learn from their different experiences»¹⁵ and likewise that the Council of Europe facilitate experience sharing among national human rights institutions and ombudspersons from the regions that have long-term IDPs¹⁶. For Ukraine specifically, the UN Special Rapporteur on the Human Rights of Internally Displaced Persons has emphasized:

It is essential that Ukraine learn from the experiences of countries facing similar internal displacement challenges, such as Georgia, Azerbaijan and Serbia in which internal displacement has become protracted and durable solutions were delayed or neglected. Lessons must be learned from such situations to help Ukraine as it puts in place the necessary frameworks, structures and programmes to address the IDP situation [...] ¹⁷.

Target audience:

— In keeping with its purpose to provide guidance to the Government of Ukraine and other actors engaged in responding to the situation of internal displacement, the primary intended audience of this guide encompasses governmental officials and civil servants in all relevant ministries and at all levels of government (state, regional, local administrations), parliamentarians, the office of the Ombudsman, and civil society, including IDP associations.

— Moreover, while this guide is focused on informing and assisting the response to internal displacement in Ukraine, the information it contains may also prove useful to authorities and stakeholders in other countries, in particular in other member states of the Council of Europe that currently are experiencing, or who in future may experience, internal displacement.

Structure of this guide:

— This guide explores experiences in other countries, in particular other Council of Europe member states, in addressing a number of issues relevant to the current situation of internal displacement in Ukraine and summarizes practices that may be instructive or otherwise valuable in informing and guiding shaping responses in Ukraine. A sep-

¹⁵ *ibid*

¹⁶ *ibid.*

¹⁷ UN, Report of the Special Rapporteur on the Human Rights of IDPs: Ukraine, para. 69.