



Closing the gap in European IDPs protection through a holistic European convention

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Abstract: The absence of a legally binding instrument on IDPs protection, considering their unique vulnerabilities and needs, leaves a growing number of individuals in limbo. It is high time to create an innovative, holistic European convention on IDPs, adopting new lenses on human rights and related challenges.

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As a consequence of Russia's invasion of Ukraine, the numbers of internally displaced persons (IDPs) in Europe rose to [9 million in 2022](#). Individuals displaced by conflicts are increasingly joined by those uprooted due to environmental factors.

The current legislative framework on IDPs protection

Despite the growth in internal displacement, a legally binding framework on IDPs protection has yet to be created. Evidently, IDPs are protected by the International Covenant on Civil and Political Rights ([ICCPR](#)) and the International Covenant on Economic, Social and Cultural Rights ([ICESCR](#)) on the same basis as non-displaced individuals. Nonetheless, their ability to avail themselves to many of the human rights therein is severely impaired due to discrimination based on their displacement status, as has been shown in various cases of the European Court of Human Rights (e.g. [Loizidou v. Turkey](#), [Dogan and Others v. Turkey](#), [Cyprus v. Turkey](#), [Skerovic and Pasalic v. Bosnia and Herzegovina](#), [Selygenenko and Others v. Ukraine](#)).

International humanitarian law, specifically the Convention (IV) relative to the Protection of Civilian Persons in Time of War ([Geneva Convention IV](#)), meanwhile protects the rights of all civilians in armed conflict, including IDPs. It limits, for instance, the circumstances under which individuals can be displaced and the conditions to be guaranteed upon uprooting them and gives special treatment to some vulnerable groups. Nevertheless, it does not pertain to those persons displaced because of environmental factors and, like human rights law, does not consider the specific challenges faced by IDPs.

One attempt to remedy this issue was through the creation of the [UN Guiding Principles on Internal Displacement](#), which for the first time recognised environmental causes of displacement, and laid out rights of particular relevance to IDPs, such as the right to choose between integration, relocation, or resettlement, and the right to property. The Guiding Principles also underlined some specific needs of displaced women. Despite its aspirational aim of seeking to bridge the gaps of IDPs protection and undeniable contributions to this end, the Guiding Principles remain a non-binding blueprint.

Nonetheless, they have since been taken up in the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa ([Kampala Convention](#)), the first regional, legally enforceable treaty codifying IDPs rights and protection. In addition to embracing the UN Guiding Principles, the convention also expands considerably on *inter alia* the rights of host communities (Articles III (2)(c) and V (5)), women's health (Article IX (2)(d)) and the protection of persons displaced due to environmental factors (Article V (4)).

Innovating European IDPs protection through a regional convention

An [analysis recently conducted](#) on the topic has found that a binding European convention on the protection of IDPs should take the Kampala Convention as well as the UN Guiding Principles as a foundation and adapt it to the European internal displacement context, and current and future hurdles in IDPs protection. This desirable effort should cover at least the following aspects.

Including a climate justice perspective

The new regional legally binding framework should address the unsettling pattern of [rising climate displacement](#), including the [prominence of climate change](#) as a cause of displacement and the resulting needs of those affected. The proposed convention should obligate European states to include the [climate justice](#) perspective into national IDPs legislation, since the detrimental effects of climate change disproportionately affect already disadvantaged individuals. The resulting social injustice should therefore be taken into account in both the regional and national IDPs protection legislation.

Additionally, under a new regional convention, European countries should be required to help communities and areas that have been disproportionately affected by climate-related events by establishing frameworks for disaster management and building resilient infrastructures, to combat some of the root causes of displacement, strengthen host communities' resilience, and provide safe and sustainable return conditions. A potential approach to reducing the effects of climate change disasters including on internal displacement could be the introduction of an instrument similar to the [EU Solidarity Fund](#) but with a broader geographical scope covering all Council of Europe member states. Discussing whether such an instrument could be created within the context of the convention on IDP protection merits further analysis.

Protecting vulnerable groups including women and LGBTQI+ persons

A European convention on IDPs should also address the heightened vulnerability and needs of specific groups, including women and the LGBTQI+ community. To understand these people's needs and challenges in all facets of life as internally displaced persons, it is crucial to consult them directly. Of course, the protection from discrimination together with the necessity of investigations in case of rights violations is among the first goals.

The assumption of a gendered perspective is another crucial element. This pertains particularly to the right to health by guaranteeing, for example, medical and psychological care for victims of gender-based violence, a problem that disproportionately affects internally displaced women and members of the LGBTQI+ community. Strictly connected to this is the establishment of shelters for survivors and educating authorities on how to recognise and respond to such acts of abuse. Awareness raising on the risks faced by internally displaced

women and LGBTQI+ persons among authorities as well as internally displaced populations and host communities is also paramount.

Acknowledging IDPs' right to health

In addition to the right to health of vulnerable groups, and given the [interdependence, indivisibility and interrelatedness](#) of all human rights, the right to health of every IDP should be fully acknowledged. Since there can be '[no health without mental health](#)', a European convention should safeguard both their physical and mental well-being and safety in order to holistically respect, protect and fulfil the right to health of IDPs. It should explicitly outline the intrinsic link between IDPs' right to mental health, their right to physical health and their capacity to make use of their other human rights.

In addition to the impacts of mental health on the individual and their human rights, mental health is essential for a sustainable, stable and productive European society. For instance, environments not conducive to the mental health of individuals may lead to heightened levels of [serious and violent crime](#) in communities as well as reduced [productivity and employment](#), while optimal environments help foster [social cohesion](#) or a 'sense of belonging' amongst individuals.

Hence, a European convention should highlight that violations of the right to mental health of IDPs have repercussions for the individual IDP as well as their community. State parties to a European convention should guarantee the medical and psychological care and rehabilitation of IDPs, especially if they have witnessed or experienced atrocities and other traumatic events.

In accordance with Article 2 of the ICESCR, European governments should thus allocate sufficient funds to immediate short-term and enduring long-term programs, as well as involve independent organisations like the International Committee of the Red Cross when they themselves are unable to provide IDPs with such care.

Undertaking an inclusive approach towards IDPs

Lastly, further provisions of the new convention should encompass long-term solutions that focus on inclusion through the obligation of European states to consult with IDPs directly as to whether they wish to integrate, resettle or repatriate. For IDPs to be effectively included, the views of host communities regarding their needs must be taken into account.

Introducing programs that unite IDPs and their host community in order to support their integration is also vital, regardless of the length of time of said integration. This entails combatting discrimination for instance through awareness raising to ensure the human rights of IDPs and their full participation, inclusion and membership in their communities.

Moving forward: recommendations

In sum, CoE member states must urgently address issues relating to the region's growing numbers of IDPs by tackling gaps in existing human rights legislation and developing a European convention on the protection of IDPs.

More specifically, such a convention should include, *inter alia*, the following components:

1. a binding definition highlighting the various sources of internal displacement;
2. support (i.e., financial, technical, logistical, etc) for the UN Special Rapporteur on the human rights of IDPs and other entities;
3. a data collection system with a focus on vulnerable groups (e.g. sex-disaggregated data);
4. an obligation to prevent internal displacement and to protect all human rights on the same basis as those of non-displaced persons;
5. a platform to exchange good practice on IDPs laws at intergovernmental level.

Finally, the new convention should utilise various perspectives, including climate justice, psychology, gender analysis and human rights so as to address IDPs issues in a holistic manner.