

# **IDPs and Refugees in the OSCE Area**

**Volker Türk**

Dr. Volker Türk is director of the international protection division at the United Nations High Commissioner for Refugees in Geneva.

DOI: [10.1163/187502311797457076](https://doi.org/10.1163/187502311797457076)

The plight of those who have been displaced, either outside or within their State's borders, as well as the plight of those who are not even recognized as belonging to any particular State and are thereby condemned to living in a legal limbo, remain matters of deep international concern. Since UNHCR is this year commemorating the anniversaries of both the 1951 Convention relating to the Status of Refugees and the 1961 Convention on the Reduction of Statelessness, it is especially timely to reflect upon today's challenges and the way forward in a sphere which touches upon both State and human security. This is a topic in which the OSCE has particular expertise.

### **The situation in North Africa**

A stark reminder of the magnitude of today's challenges can be found in the situation in North Africa and the Middle East, in particular the displacement scenarios developing as a result of the conflict in Libya. This also affects the OSCE region in some ways. However, Tunisia and Egypt bear the brunt of the displacement challenges, having to cope with over 850,000 people departing Libya. The vast majority of them are migrant workers returning to their countries of origin. But there are also well over 100,000 Libyan refugees seeking safety in both neighbouring countries, as well as a few thousand refugees, primarily from Eritrea and Somalia, stranded at the borders in Tunisia and Egypt. Only about one per cent of those leaving Libya have arrived in the OSCE region, with an even lower number of refugees surviving the hazardous and terrifying journeys across the Mediterranean. It is our estimate that some 1,200 people have perished at sea over the last couple of weeks.

IOM and UNHCR launched a massive humanitarian evacuation programme for third country nationals back to their respective countries of origin. We have also appealed to States in Europe and beyond to protect refugees fleeing Libya by supporting UNHCR's Global Resettlement Initiative and demonstrating solidarity with Tunisia and Egypt. Burden sharing is essential in this context.

### **Figures for Persons of Concern in OSCE Participating States**

By the end of 2010, there were 43.7 million forcibly displaced people worldwide, the highest number in 15 years. Of the world's displaced persons, more than 25.2 million people — 10.5 million refugees and 14.7 million internally displaced persons — were receiving protection or assistance from UNHCR. There are also an estimated 12 million stateless people in the world.

Of this global number, almost five million are of concern to UNHCR in OSCE participating States. This includes over two million refugees, some one and a half million internally displaced persons and around one million returnees, stateless and other persons. Such high numbers are a sufficient reason to explore what we can best do to meet their needs and to work collectively on addressing their plight. But in so doing we must recall that they are among the most vulnerable and marginalized people in societies.

### **The Organization for Security and Cooperation in Europe**

The OSCE — as an institution and a regional cooperation framework — has injected into the global debate various security and human rights dimensions that are highly relevant in the forced displacement context. The linkages between security and forced displacement are multifaceted. The concept of security permeates the entire refugee protection framework and two aspects of security — that of the displaced and that of the State — are intrinsically interlinked. This has been reflected in many OSCE commitments concerning displaced persons, returnees and the stateless.

The OSCE's increased focus on refugees and displaced persons is an important development and has led to expanded cooperation between the OSCE and UNHCR. In particular, the OSCE has focused on addressing the many challenges facing post-conflict communities. This directly impacts on the realization of durable solutions for those who have been displaced. Another good example of effective collaboration is the regional process currently under way in South Eastern Europe, whereby the OSCE, the EU and UNHCR are working closely together to support governments in their endeavour to bring an end to the displacement chapter.

### **Anniversary Commemorations**

Against the background of these facts and figures, this year's anniversaries provide an opportunity to affirm the enduring relevance of the core refugee and statelessness instruments, to re-examine the current state of global displacement and, at the same time, to chart a way forward so as to ensure that protection gaps are minimized and protection needs are met more fully.

To mark these anniversaries, UNHCR is convening a series of expert meetings and consultations, leading up to a ministerial meeting on 7-8 December 2011 in Geneva, where States will have the opportunity to make voluntary pledges to reinforce the international protection regime.

Anniversaries provide an opportunity to step back and reflect upon progress that has been made over the years, but also to identify areas that require further attention and to devise a vision for the future. What are some of the protection gaps?

Gaps in international protection generally arise in three areas. The first is the inadequate implementation of existing instruments by countries which have ratified them, combined with a lack of respect for peremptory norms such as non-refoulement. A lack of accessions and buy-in to relevant conventions create a second kind of gap. But there are also normative gaps in the international protection framework.

### **Emerging Protection Gaps**

Displacement is often generated as a result of complex and dangerous environments, in which civilians are increasingly targeted and where insecurity, violence and persecution trigger it. At the same time, new forms of displacement are emerging in a world where population growth and enhanced mobility, combined with a diversity of social, economic, political, environmental and human-rights factors, drive population movements. During a recent mission to Darfur I was struck, for instance, by how climate change issues, such as desertification and dwindling natural resources, are part of a complex web of interrelated causes of displacement.

These emerging challenges are resulting in new protection gaps. The international community needs to develop appropriate responses. Forced displacement across international borders due to climate change and environmental factors is one such normative gap, which falls largely outside the scope of existing global protection instruments.

The Guiding Principles on Internal Displacement provide a sound framework to protect those who are displaced within their own borders owing to environmental reasons. Inspired by the Guiding Principles, the African Union has devised the first binding international treaty regarding protection and assistance for internally displaced persons. Natural disasters prompting displacement, including those resulting from environmental factors, are covered by the AU's 2009 Kampala Convention for the Protection and Assistance of

Internally Displaced Persons (IDPs) in Africa, which is a welcome development.

National legislation, policies and institutions are central to developing appropriate responses to both the internal and external dimensions of climate-related displacement. Pre-existing regional and sub-regional governance forums and arrangements, including mechanisms promoting free movement, should be further explored to determine the extent to which they can or should apply to climate-related migration and displacement. It would be interesting to learn more about how the OSCE is dealing with these new challenges at the regional level.

When it comes to the global level, however, we do not yet have a set of guiding principles or instruments that would deal more specifically with climate-related external displacement. UNHCR would be very interested in exploring further, both with you and with others, how to develop such a global guiding framework.

### **Atmospherics Gap: Racism, Racial Discrimination, Xenophobia and Hate Crimes**

Another important challenge relates more to the ‘atmospherics’ of protection. Internal conflict, rooted in notions of identity — in which communities are mobilized along ethnic, religious, language or racial lines — has emerged as an increasing threat to stability and peace at both the local and international level. This is not only an important driver of displacement, but also a phenomenon that accompanies those fleeing when they seek safety but are then faced with a climate of intolerance, xenophobia and racism. In fact, it is such climates that disrupt solidarity, social fabrics and generate populist politics, with a negative impact on key aspects of protection such as admission to safety or local integration.

Combating these atmospherics requires resolute action, political determination and good governance. This is a key protection challenge, where the work of the OSCE and UNHCR intersects and where the two have enjoyed fruitful cooperation. The OSCE’s work in combating discrimination and xenophobia and in promoting minority rights, multi-culturalism and integration is pivotal, for example its new hate crimes training programme for law enforcement officers.

### **Mixed Movements and Protection-Sensitive Border Management**

A third major challenge is mixed migratory movements, where people with different reasons for moving travel alongside each other. This is not only challenging for States but also puts the individuals concerned at risk. States obviously have a legitimate interest in controlling unauthorized entry and in combating international crime, including the smuggling of persons and human trafficking. At the same time, such measures need to be sensitive to legitimate needs for protection, notably towards refugees, asylum seekers and others.

UNHCR recently issued ‘Refugee Protection and Mixed Migration: The 10- Point Plan in Action’. This is a compilation of nearly 200 practical examples to address mixed movements. It also provides guidance on operationalizing protection-sensitive entry systems, and includes practical examples that have involved the OSCE such as the ‘CARDS Project’ for the pre-screening and identification of various categories of persons arriving as part of mixed movements in Albania.

UNHCR is also continuing its work with States and regional organizations to ensure that mechanisms are in place at borders to identify persons seeking international protection and to ensure that they have access to territory and asylum procedures. UNHCR is, for example, an active Advisory Board Member and provides training at the OSCE -led Border Management Staff College located in Dushanbe.

A key issue confronting States is human trafficking, one of the most lucrative and rapidly growing criminal industries in the world. Inter-agency collaboration is critical to address gaps in identifying, assisting and protecting victims. For this purpose, UNHCR is working closely with the OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, with a special focus on child protection and in particular the movement of unaccompanied minors, many of whom originate from Afghanistan.

### **Statelessness**

A fourth and vital challenge relates to statelessness, an often forgotten and neglected phenomenon. The United Nations General Assembly has given UNHCR a global mandate for the prevention and reduction of statelessness and the protection of stateless persons. It is currently working to address statelessness in all OSCE participating states.

Noteworthy progress has been achieved to reduce statelessness over the past two decades, with major reductions in a broad range of countries. Despite this, over 500,000 people remain stateless in the OSCE region but the full scale of statelessness in many countries in the region is still unknown. There are countries where many long-term habitual residents remain with an undetermined nationality, for instance as a result of State succession or migration. Other existing gaps relate to provisions in some nationality laws that could render individuals stateless when they seek to change their nationality or when they reside abroad without consular registration. Incomplete safeguards against statelessness at birth are in place in a number of States. The continuing reform of nationality laws and related procedures is therefore necessary to bring them into line with international standards to prevent statelessness.

Against this backdrop, it is clear that further work is needed on creative measures to resolve actual and potential statelessness situations, including through additional measures to facilitate the acquisition of nationality by stateless persons. Kyrgyzstan, Georgia and Lithuania have introduced important legal safeguards against statelessness in recent years. Other OSCE participating States should follow this example.

This anniversary year would be a fitting occasion for States that have not yet acceded to the two statelessness conventions to do so. At the moment, 36 OSCE States are party to the 1954 Convention, and 20 OSCE States are party to the 1961 Convention. Accession to these instruments not only makes a difference for the State in question, but also reinforces the global standards set out in both conventions and buttresses UNHCR efforts to address statelessness in the OSCE and other regions.

### **Internal displacement**

A fifth protection challenge is internal displacement. According to the Internal Displacement Monitoring Centre (IDMC) that reports comprehensively on all internally displaced persons, irrespective of UNHCR assistance, OSCE participating States are today host to between 2.4 and 2.6 million internally displaced persons, the vast majority of whom were obliged to leave their homes between 15 to over 30 years ago.

The main feature of internal displacement in the OSCE region is its protracted character, linked mostly to a failure to find solutions to complex conflicts which often have an ethnic or community dimension or involve disputes surrounding the status of particular territories. Coupled with problems of economic development, this has left hundreds of thousands of internally displaced persons in a limbo of marginalization and poverty, in some instances with little or difficult access to housing and basic services and scant opportunities for self-

reliance. This particularly affects the most vulnerable of the displaced, including older persons, women heads of household and ethnic minorities. Internal displacement also augments the risk of human rights violations, including sexual and gender-based violence. Without solutions to the root causes of displacement, fresh conflict and displacement cannot be ruled out.

The Guiding Principles on Internal Displacement have been recognized by the OSCE as ‘a useful framework for the work of the OSCE and the endeavours of participating States in dealing with internal displacement’. They are widely regarded today as the standard to which States should seek to adhere. The Framework for Durable Solutions for Internally Displaced Persons, which details the principles, processes and criteria that underpin durable solutions for the internally displaced, is also a very useful reference.

There is currently an interesting debate revolving around regional legal standards for internally displaced persons, and the recent Kampala Convention in Africa is perhaps an example to follow. At the same time, it is crucial that States adapt their internal legislation and policies to meet the protection needs of the internally displaced and in particular their need for a durable solution, in a way that is consistent with the standards listed above. Freedom of movement and non-discrimination underpin durable solutions in such contexts. While in some instances States may regard the return of the internally displaced as part of recovering the status quo ante, the people themselves cannot be held hostage to a lack of progress in peace processes or conflict resolution. It is therefore essential that these processes and agreements adequately address the problems of the internally displaced and their need for durable solutions, and give them a voice in order to guarantee that their rights and legitimate interests are well represented.


Opportunities for long-term local integration or settlement elsewhere need to be pursued, taking into account the particular needs of the most vulnerable and without precluding the right to return in the future. This is a right that peace processes need to underscore. In this sense, the recent cases of Georgia and Azerbaijan set an example of how to provide opportunities for local integration, while efforts are ongoing to resolve the causes of displacement that may open the possibility of a return for those willing to do so.

## Conclusion

Despite the best efforts of the OSCE and UNHCR, there is still a long way to go to ensure that the protection needs of displaced persons and the stateless are adequately met.

I recently returned to South Eastern Europe, having worked there as a senior protection officer in the mid-1990s. I was saddened to learn that a family that I had regularly visited was still living in a collective centre. My life had moved on significantly in the past fifteen years. Theirs had remained stagnant.

Such stories remind us that the scope for collaboration to improve international protection remains vast. We must therefore step up our efforts to find solutions for the many displaced and stateless people in the OSCE area.



This article was first published with Brill | Nijhoff publishers, and was featured on the Security and Human Rights Monitor (SHRM) website.

Security and Human Rights (formerly Helsinki Monitor) is a journal devoted to issues inspired by the work and principles of the Organization for Security and Cooperation in Europe (OSCE). It looks at the challenge of building security through cooperation across the northern hemisphere, from Vancouver to Vladivostok, as well as how this experience can be applied to other parts of the world. It aims to stimulate thinking on the question of protecting and promoting human rights in a world faced with serious threats to security.

Netherlands Helsinki Committee  
Het Nutshuis  
Riviermarkt 4  
2513 AM The Hague  
The Netherlands

© Netherlands Helsinki Committee. All rights reserved.

[www.nhc.nl](http://www.nhc.nl)