

**The Brookings Institution-Johns Hopkins SAIS  
Project on Internal Displacement**

# **The Voting Rights of Internally Displaced Persons: The OSCE Region**

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# **The Voting Rights of Internally Displaced Persons: The OSCE Region**

*by*

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THE BROOKINGS INSTITUTION-SAIS PROJECT ON INTERNAL  
DISPLACEMENT

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## FOREWORD

In September 2000, our Project produced its first study examining the extent to which internally displaced persons were able to exercise their right to political participation, covering four countries in the OSCE region. We were pleased when the OSCE subsequently decided that the voting rights of internally displaced persons were an issue warranting “special scrutiny.”

To assess and assist the OSCE’s efforts in this regard, the Project decided to expand the study to incorporate all thirteen countries of the OSCE in which there are internally displaced populations. Undertaking this second, more comprehensive study, also provided an opportunity to update earlier findings and show the progress that has been made in a number of countries to enhance the ability of internally displaced persons to exercise their right to political participation, in particular their right to vote.

At the same time, the findings of this study show that large numbers among the approximately three million IDPs in the OSCE region continue to face obstacles in exercising their right to vote, sharply reducing their influence over the many political, economic and social decisions affecting their lives. To address these concerns, the study puts forward a number of recommendations for particular countries as well as for the OSCE to ensure greater and more systematic attention to the voting rights of the internally displaced.

The initial findings of this report were presented to an OSCE Supplementary Human Dimension Meeting on Electoral Standards and Commitments held in Vienna, 15-16 July, 2004. As a result, the meeting concluded that the OSCE should mainstream the issue of IDP voting rights into its electoral work. This final report is being made available at the OSCE Supplementary Human Dimension Meeting on Internally Displaced Persons to be held in Vienna, 4-5 November, 2004, which also will address the voting rights of the displaced. It is our hope that this report will encourage and assist the OSCE, its participating states and civil society partners to devote greater attention to the political participation of internally displaced persons and also will serve to stimulate similar efforts in other parts of the world as well.

We are most grateful to Erin Mooney, Deputy Director, and Balkees Jarrah, Research Assistant, of the Project for their painstaking work in preparing this report.

Finally, the views presented in the paper are the authors’ alone and should not be ascribed to the co-directors, trustees, officers, and other staff members of the Brookings Institution or of the Johns Hopkins University School of Advanced International Studies (SAIS).

Roberta Cohen

Francis M. Deng

Co-Directors

Brookings-SAIS Project on Internal Displacement

## ACRONYMS

CEC	Central Election Commission
DEHAP	Democratic People's Party (Turkey)
DPT	Democratic Party of Turkmenistan
FIDH	International Federation for Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICG	International Crisis Group
IDP	Internally Displaced Person
IMU	Islamic Movement of Uzbekistan
IOM	International Organization for Migration
IRI	International Republican Institute
LEC	Local Election Commission
MRA	Ministry of Refugees and Accommodation (Georgia)
NATO	North Atlantic Treaty Organization
NLA	National Liberation Army
NRC	Norwegian Refugee Council
ODIHR	Office for Democratic Institutions and Human Rights
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
OSCE	Organization for Security and Cooperation in Europe
PEP	Participatory Election Project (IOM)
PKK	Kurdistan Workers' Party (Turkey)
RSG	Representative of the UN Secretary-General on Internally Displaced Persons
SEC	State Election Committee
TRNC	Turkish Republic of Northern Cyprus
UNHCR	United Nations High Commissioner for Refugees
UNMIK	United Nations Interim Administration Mission in Kosovo
UNTAES	UN Transitional Authority for Eastern Slavonia

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## INTRODUCTION

The principle of universal and equal suffrage, guaranteeing that every person who has the right to vote is able to exercise this right without distinction of any kind, extends, needless to say, to persons who are internally displaced. Safeguarding for internally displaced persons (IDPs) the ability to freely and fully exercise this right is therefore essential. Doing so is important not only on its own merits but also for enabling the internally displaced, who so often are marginalized, to have a say in decisions that affect their lives. Indeed, in countries experiencing internal displacement, the enfranchisement of the internally displaced is an important measure of the effectiveness and legitimacy of the overall electoral process and resulting governance structures. Moreover, because the holding of free and fair elections is a key component of repairing and rebuilding divided post-conflict societies, an inclusive electoral process can be critical for an effective reconciliation process and, therefore, also for sustainable peace and security.<sup>1</sup>

Article 21 of the Universal Declaration on Human Rights stipulates that “[e]veryone has the right to take part in the government of his country, directly or through freely chosen representatives” and through “periodic and genuine elections which shall be by universal suffrage”.<sup>2</sup> This right has been codified in a range of international and regional human rights instruments.<sup>3</sup> In particular, Article 25 of the International Covenant on Civil and Political Rights (ICCPR) provides that “every citizen shall have the right and the opportunity ... to vote and be elected at genuine periodic elections which shall be by universal and equal suffrage”. No distinctions are permitted on grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Nor are “unreasonable restrictions” permitted. In this connection, the Human Rights Committee, which is the body that interprets application of and monitors compliance with the ICCPR, has specified that if residence requirements apply to voter registration, they must be reasonable and should not be imposed in such a way as to exclude the homeless from the right to vote. Indeed, the Committee has stressed that “[s]tates must take effective measures to ensure that all persons entitled to vote are able to exercise that right.”<sup>4</sup>

The Guiding Principles on Internal Displacement, which restate established norms of international law and specify their application in situations of displacement, expressly affirm the right of the internally displaced to vote.<sup>5</sup> Principle 22(1)(d) provides that

Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of...[t]he right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right.

Principle 29 (1) reaffirms the right of IDPs “to participate fully and equally in public affairs at all levels” upon return or resettlement. Moreover, an overarching principle to all of the rights and guarantees articulated in the Guiding Principles is Principle 1(1),

affirming that IDPs “shall enjoy in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced.”

It was important to include in the Guiding Principles these provisions protecting the voting rights of IDPs because it had been determined that these rights routinely were at risk of being violated in situations of internal displacement. As the Representative of the UN Secretary-General on Internally Displaced Persons, Francis M. Deng, pointed out, IDPs “often are stripped of the opportunity to participate in government on a local or national basis.” A contributing factor in the denial of this right, he observed, was IDPs’ loss of identification papers and property. And yet, he emphasized, the ability of IDPs to participate in governmental and public affairs is important because it can enable them to influence, and possibly ameliorate, their own situation of displacement and the authorities’ responses to their needs.<sup>6</sup>

An analysis of IDPs’ political participation in selected countries of the Organization for Security and Cooperation in Europe (OSCE) was prepared by the office of the Representative and published by the Brookings Project in 2000.<sup>7</sup> The OSCE region, with approximately 3 million IDPs, was selected as the scope for this study for two main reasons. The first was the particular emphasis given by the OSCE and the increasingly active role of its Office for Democratic Institutions and Human Rights (ODIHR) in promoting and supporting the holding of democratic elections in its member states. Secondly, the issue of IDPs’ political participation had been identified as a particular concern in a number of the Representative’s country missions and other activities in the OSCE region.<sup>8</sup>

The study, which focused on elections in Bosnia and Herzegovina, Croatia, Georgia and the Russian Federation, concluded that IDPs were unable to vote on a par with non-displaced citizens owing either to practical difficulties posed by situations of displacement or deliberate policies by national and local authorities. To address these concerns, the study recommended the effective promotion and implementation of the Guiding Principles on Internal Displacement and other relevant international standards, including OSCE commitments, as benchmarks against which to measure national policies, laws and practices regarding the political participation of IDPs. It encouraged the OSCE/ODIHR, given its key role in supporting electoral processes, to actively identify barriers to IDPs’ political participation and to promote the necessary reforms. The study was distributed at the OSCE Supplementary Human Dimension Meeting on Migration and Internal Displacement, held in 2000, which recommended that “it should be a matter of special scrutiny whether IDPs can freely exercise their right to vote.”<sup>9</sup>

With a view to helping the OSCE sharpen its focus on the issue of IDPs’ voting rights, this paper assesses the extent to which IDPs throughout the OSCE region are able to exercise their right to vote. It begins by tracing and assessing developments in the OSCE’s attention to the voting rights of the internally displaced. The paper then provides an updated and more comprehensive analysis of IDP voting rights in the OSCE, covering all 13 countries in the OSCE region affected by internal displacement.<sup>10</sup> Specifically, this

paper examines and assesses respect for the voting rights of IDPs in *Armenia, Azerbaijan, Bosnia and Herzegovina, Croatia, Cyprus, Georgia, the Former Yugoslav Republic of Macedonia, Moldova, Serbia and Montenegro, the Russian Federation, Turkey, Turkmenistan* and *Uzbekistan*. Each case study:

- 1) briefly outlines the background of the displacement situation;
- 2) discusses the national legal and policy frameworks regulating the electoral participation of IDPs;
- 3) reviews the extent to which IDPs have been able to exercise their right to vote in specific elections, identifying particular obstacles that have impeded their exercise of this right as well as any measures put in place to facilitate IDP voting;
- 4) provides a sketch of election monitoring efforts and the extent to which they have included attention to the voting rights of IDPs; and
- 5) puts forth recommendations for improving for IDPs in each country their ability to access and exercise their right to vote.

The paper concludes with a summary of its key findings and recommendations.

The paper is based on a review and analysis of national legislation and policies, OSCE election monitoring reports, other reports evaluating electoral practices in the countries concerned, studies on the situation of IDPs, and media reports on elections. Special mention should be made of the considerable body of literature on the conduct of elections that is produced by the OSCE/ODIHR. Also noteworthy is the material on the political participation of forced migrants prepared by the Participatory Elections Project of the International Organization for Migration.<sup>11</sup> The review of primary and secondary literature was complemented by interviews and exchanges of correspondence with a number of individuals and organizations involved in election monitoring, including OSCE field staff, organizations monitoring and reporting on the conditions of IDPs in OSCE countries, and with civil society and international agencies directly engaged with assisting internally displaced populations in the specific countries.

The importance of devoting greater attention to protecting the voting rights of IDPs is now well recognized by the OSCE. As this study demonstrates, in an increasing number of situations of internal displacement, OSCE/ODIHR election monitors have worked to integrate attention to IDPs' electoral participation and advocate the adoption of corrective measures where barriers to their participation exist. There are also cases where governments within the OSCE region have amended electoral legislation and practices to remove restrictions impeding IDPs from freely and fully exercising their right to vote.

At the same time, there remains significant scope and need for further action on this issue. While in a number of countries there have been marked improvements to safeguard the voting rights of IDPs, in several cases there has been little or no progress on the issue; in fact, some case studies even reflect a degree of regression. In some of the cases covered by the 2000 study, the reasons for IDPs' inability to participate in the electoral process on the same terms as other citizens persist today, while the additional cases

studied echo many of the difficulties earlier observed. Often, the problems experienced by IDPs in exercising their right to vote are the result of weaknesses of the electoral process in general. The case studies nonetheless suggest that IDPs in the OSCE region face a number of particular obstacles to exercising their vote. These barriers include:

- lack of documentation;
- discriminatory practices;
- obsolete and restrictive residence requirements, i.e. *propiska*;
- inadequate arrangements for absentee voting;
- lack of timely and adequate information about IDP voting arrangements being provided both to IDPs themselves as well as to electoral officials; and
- insecurity and acts of intimidation.

Furthermore, the OSCE/ODIHR's attention to the voting rights of IDPs varies, often significantly, from case to case. Whereas in some cases OSCE/ODIHR has been at the forefront of efforts promoting and working to ensure protection of IDP voting rights, in other cases it appears not to have taken up the issue at all. Indeed, in some countries there is little to no information available with regard to IDP voting and sometimes even with regard to the location and condition of the IDP population itself. Restrictions in some states on OSCE/ODIHR or other international election monitoring activities and even on domestic election monitoring efforts further compound this gap in information.

This report draws attention to a range of obstacles – legal, political and practical – that stand in the way of the electoral participation of the internally displaced. It also makes recommendations towards removing these obstacles and enabling IDPs to freely and fully exercise their right to vote. It is to be hoped that its findings will assist governments in effectively discharging their national responsibility towards internally displaced populations and also assist the OSCE and other organizations active in monitoring elections to promote and protect the voting rights of the internally displaced.

Moreover, though focused on the experience in the OSCE region, this study should also prove instructive in other parts of the world in encouraging electoral monitoring for IDPs and highlighting ways of improving national laws, policies and practices to enable the displaced to freely and fully exercise their right to vote.

## THE ROLE OF THE OSCE IN PROTECTING THE VOTING RIGHTS OF INTERNALLY DISPLACED PERSONS

In recognition that “pluralistic democracy and the rule of law are essential for ensuring respect for all human rights and fundamental freedoms,” OSCE participating states have collectively committed to build democratic societies based on free elections and the rule of law. They have “declare[d] that the will of the people, freely and fairly expressed through periodic and genuine elections, is the basis of the authority and legitimacy of all government.” Accordingly, they have committed themselves to “respect the right of their citizens to take part in the governing of their country, either directly or through representatives freely chosen by them through fair electoral processes” and to “guarantee universal and equal suffrage to adult citizens.”<sup>12</sup>

In 1990, the OSCE established the Office for Free Elections to promote and support OSCE states in meeting these commitments. To reflect its expanded mandate, in 1992 this institution was renamed the Office for Democratic Institutions and Human Rights (ODIHR). ODIHR plays a leading role in Europe in the field of election observation and assistance. It coordinates and organizes the deployment of several observation missions every year, with thousands of election observers, to assess whether elections in the OSCE area are in line with national legislation and international standards. It also provides technical assistance to assist OSCE states to improve their national electoral framework.

With some 3 million IDPs in 13 different countries across the OSCE region, the internally displaced represent a sizeable group of electors. It is therefore critical that the issue of electoral participation by IDPs receives the attention of the OSCE. To be sure, there are a number of cases where OSCE field missions have been actively engaged in monitoring and reporting on the voting rights of IDPs; particularly noteworthy in this regard are the cases of Bosnia-Herzegovina and Kosovo, where the OSCE was mandated with primary responsibility for organizing and conducting the electoral process. Overall, however, the OSCE’s attention to IDP voting rights has been largely *ad hoc* and inconsistent from one country to the next. The principle of universal and equal suffrage surely requires a comprehensive and systematic approach.

In recent years, the OSCE has recognized the need to devote greater attention to the issue of IDPs’ voting rights. At the OSCE’s Supplementary Human Dimension Meeting on Migration and Internal Displacement in 2000, where the Brookings Project’s first study on the issue was distributed, participating states recommended that “[t]he OSCE should, as part of its reporting and monitoring activities, regularly review the situation of IDPs” and that “[d]uring election observation, it should be a matter of special scrutiny whether IDPs can freely exercise their right to vote.”<sup>13</sup>

It is also significant that the OSCE Ministerial Council in 2003 decided to “take into account the UN Guiding Principles on Internal Displacement as a useful framework for the work of the OSCE and the endeavors of participating states in dealing with internal displacement.”<sup>14</sup> The Guiding Principles, it will be recalled, affirm the right of IDPs to vote. At the same meeting the Ministerial Council also adopted a resolution on elections,

emphasizing the importance, “drawing on expertise from the ODIHR, to consider the need for additional commitments on elections, supplementing existing ones”.<sup>15</sup> Although IDPs were not specifically mentioned, it is significant that this resolution recognized the need to expand the scope of the OSCE’s standard election-related activities.

It is noteworthy in this regard that an October 2003 progress report providing an inventory of existing election-related norms, commitments, principles and best practices of the OSCE as regards democratic elections<sup>16</sup> made no mention of IDPs and the difficulties they faced in exercising their right to vote, this despite the fact that a number of related issues were raised. For instance, the report stressed that:

Secure mechanisms should be implemented to permit absentee voting by persons who are temporarily away from their area of residence, especially if such persons are residing internally. The absence of a permanent residence should not prevent an otherwise qualified person from being registered as a voter.<sup>17</sup>

It was underscored that arrangements for absentee voting were particularly important to enabling the enfranchisement of voters “who are away from their home areas, especially if they are located elsewhere on national territory.”<sup>18</sup> No mention was made of IDPs, for whom absentee voting arrangements are often the only safe and practical means of enabling them to vote.

In connection with the Supplementary Human Dimension Meeting in July 2004, the OSCE circulated, in addition to this progress report, a discussion paper on future challenges for democratic elections in the OSCE region and the possible need for additional commitments.<sup>19</sup> This document also did not contain any reference to IDPs or the challenges they face in exercising their right to vote. In a discussion of the right to universal and equal suffrage, for example, the paper states that enabling citizens to take advantage of this right requires states to take positive action to “facilitate the participation of women, inclusion of minorities, access for disabled persons, and other groups that experience barriers to participation in elections.” The particular problems experienced by IDPs surely would have warranted mention in this context. In addition, given that the electoral registration of displaced voters has repeatedly proven problematic in past elections in the OSCE, the paper’s discussion of voter registration<sup>20</sup> also would have benefited from a clear reference to displaced persons. The lack of attention paid in these policy documents to the difficulties faced by IDPs in exercising their right to vote appears out of step with the OSCE’s earlier call for the voting rights of IDPs to be a matter of “special scrutiny”.

Taking into account these oversights, which were pointed out in a presentation together with a summary of the obstacles that IDPs in the OSCE experience in exercising their right to vote,<sup>21</sup> the Supplementary Human Dimension Meeting concluded that the OSCE should mainstream the issue of IDPs’ voting rights into its electoral work. Austria, which was among those countries that particularly welcomed the attention drawn at the meeting to the issue of IDP voting rights, suggested that “even though one might think that the

Organization has amassed sufficient experience in this field, there is still a lot that remains to be done in the conceptual and practical area.”<sup>22</sup>

Indeed, gaps in the integration of displacement issues in the OSCE election-related activities also are evident in the OSCE *Election Observation Handbook*, which outlines the general methodology of OSCE election observation and lays out a set of practical guidelines for the conduct of election observation missions.<sup>23</sup> In the context of voter identification and registration, the *Handbook* merely mentions that large-scale displacement “can cause significant population shifts between elections” and notes that “identifying and registering large numbers of voters who have moved is a substantial technical undertaking.”<sup>24</sup> Little guidance is provided, however, on the need and ways to assess the opportunities for electoral participation that are open to displaced populations.

In its discussion of special voting arrangements, the *Handbook* points out that:

Providing mobile ballot boxes and absentee voting broadens the participation of the electorate. However, these are provisions that can be open to abuse and therefore jeopardize confidence in the election process.<sup>25</sup>

The emphasis therefore appears to be more on the risks than the benefits that special voting arrangements can pose to the electoral process. For IDPs, however, mobile ballot boxes and absentee voting arrangements are often the safest and most practical means of enabling them to exercise the right to vote. Furthermore, a set of suggested questions to use in monitoring absentee voting arrangements focuses on doing so in military barracks, prisons and hospitals<sup>26</sup> and fails to make mention of the importance of such provisions in situations of displacement. Election monitors must be made aware that absentee voting arrangements are important tools to ensure the inclusion not only of military personnel, prisoners and the sick but also IDPs in the electoral process.

Upon arrival in the country of deployment, OSCE election observers receive training on the local legal frameworks, political context and the relevant electoral provisions.<sup>27</sup> Observers are also briefed on the methodology employed by the OSCE and are given technical training on preparing election monitoring reports. It is uncertain to what extent sensitization on the issue of internal displacement and the particular obstacles to electoral participation that IDPs often experience form part of this field training.<sup>28</sup>

Against this background of general observations, this study reviews and assesses the experience in a total of 60 elections held in countries of the OSCE that have internally displaced populations. The cases of Bosnia-Herzegovina, Serbia and Montenegro, the Former Yugoslav Republic of Macedonia, Georgia and Azerbaijan provide examples in which IDP voting has received significant attention in OSCE monitoring reports, with the case of Bosnia-Herzegovina being particularly noteworthy in this regard. However, attention has been given to IDPs’ electoral participation in less than half of the elections where there are internally displaced voters.

Where there is an absence of IDP coverage in election monitoring reports, our findings suggest that obstacles may still exist. In some cases, such as Armenia and Moldova, the lack of reference to IDP electoral participation might be because of the comparatively small size of the displaced population or because of a general lack of data on IDPs. Undertaking to assess the electoral participation of IDPs in these countries could go some way toward filling this information gap as well as providing a basis to address any difficulties they face in voting.

In reviewing the election reports that do reference the electoral participation of IDPs, it becomes apparent that this issue is not given consistent attention from one country or one election to the next. There is no standard format in OSCE election monitoring reports for discussing the voting rights of IDPs. This is in marked contrast, for example, to reporting on gender-related issues and the participation of minorities, which tend to be addressed under a specific heading in monitoring reports. Requiring election monitors to comment, under a specific heading in their reports, on IDPs' ability to exercise their right to vote could help direct their attention to this issue.

The lack of consistent attention in election reports to voting rights for IDPs means that there also is often no follow up on previously identified concerns regarding IDP voting. Reports on different elections in the same country do not always cover the same issues of concern to IDPs, therefore leaving it unclear whether obstacles to IDP voting no longer exist or merely are not reported. For instance, no mention was made of IDP voters in the reports on the 2003 Parliamentary Elections in Croatia and the Russian Federation, despite earlier attention to the problems experienced by this group of voters and notwithstanding the fact that displacement remained significant in both countries. Providing a notable exception are OSCE reports on elections in Serbia-Montenegro, which consistently discuss absentee voting procedures, though not always with express reference to the impact of these procedures on IDP voters.

Where the issue of IDP voting rights is touched upon, it often tends to be discussed in the context strictly of electoral registration. Most often at issue is whether IDPs are allowed to vote in their places of temporary residence, or in their places of permanent residence, or whether they have a choice between the two. This has been a predominant problem in Georgia and Bosnia, for instance. Electoral registration also requires the maintenance of accurate voters' lists. The OSCE has reported on a number of cases, including Croatia and Bosnia-Herzegovina, where IDPs were not included on voter lists and were therefore unable to vote. Compounding this problem in some cases have been openly hostile attitudes on the part of polling station staff towards IDP voters from different ethnic groups. Moreover, some monitoring reports simply describe the official arrangements for IDP voting, but contain little information on the actual implementation of such arrangements.

In addition to its role in election monitoring, the OSCE also provides technical assistance to its member states in redrafting national electoral legislation. In a positive development in Bosnia and Herzegovina, for example, the OSCE introduced amendments ensuring the ability of IDPs to participate in elections. Similarly in Kosovo, where the international community requested the OSCE to supervise the electoral process, the OSCE devoted

considerable effort to establishing provisions to facilitate IDP voting, in particular absentee voting procedures. Especially given its first-hand knowledge of the issues of concern on the ground, the OSCE can lend valuable insight and expertise to ensure that any concerns regarding IDPs' ability to vote are addressed in electoral legislation. The case of Georgia provides a good example of how OSCE's efforts monitoring the ability of IDPs to exercise their voting rights in elections, together with its work in promoting amendments to national electoral legislation to remove obstacles to IDP voting, have reinforced one another.

In summary, it can be said that, generally speaking, there is now awareness within the OSCE of the need to devote attention to the particular situation of IDP voters because of the specific obstacles they often face. At the same time, this recognition has not yet permeated the Organization to such an extent as to ensure systematic attention to the issue. Training material for election observers as well as recent OSCE policy documents on new or remaining challenges in its elections work make little or no reference to the particular difficulties faced by IDP voters and how these might be addressed. As a result, coverage in OSCE election monitoring reports of issues of IDP voting rights, though significant in some cases, has not been consistent, and in more than half of the cases receives no mention at all. Much greater effort therefore needs to be undertaken to integrate the issue of IDP voting into the work of the OSCE as well as the policy and practice of its participating states.

To this end, it is recommended that the OSCE:

- *Adopt* a consistent methodology for addressing the issue of IDPs' electoral participation to ensure that systematic attention is paid in election monitoring to any particular barriers that IDP voters face.
- *Introduce* a standard section on IDP voting in election monitoring reports for all countries where there is internal displacement.
- *Incorporate* sensitization of IDP issues into the training of election monitors and elections staff in the secretariat.
- *Ensure* attention to IDP-related issues when providing technical assistance in the drafting of new electoral codes or when reviewing existing national electoral legislation.
- *Enhance* coordination within the OSCE/ODIHR on the issue of IDP voting, including the sharing of information and expertise, between ODIHR's staff covering internal displacement (the migration unit) with those focused on elections work, to promote mainstreaming of the issue of IDP voting into both aspects of OSCE's work and strategic coordination in addressing identified concerns.

## ARMENIA

*Until recently, a shortage of data on Armenia's internally displaced population hindered efforts to assess IDPs' electoral participation. However, a number of issues of concern in national electoral legislation and administration, in particular voter registration based on permanent residence and a lack of absentee voting, potentially pose particular difficulties for IDP voters.*

### **I. IDP SITUATION OVERVIEW**

Estimates have put the number of conflict-induced IDPs in Armenia at up to 72,000. In 2000, Government figures reported the number of IDPs in the country at 192,000, of whom 100,000 were displaced by an earthquake in 1988, 20,000 were uprooted by natural and human-made disasters and 72,000 had fled as a result of the conflict with Azerbaijan over the territory of Nagorno-Karabakh.<sup>29</sup> The US Committee for Refugees, however, estimated the number of conflict-induced displaced to be closer to 50,000 at the end of 2002.<sup>30</sup> Reliable data on internal displacement remained limited until 2004 when an IDP mapping project carried out by the Norwegian Refugee Council (NRC) put the number at 3,000. According to the NRC:

[t]his dramatic reduction in the number of potential IDPs is due in part to the continued return of displaced people to their villages. Others, up to 26,000 people, have emigrated over the last ten years, mostly to Russia. Smaller numbers of IDPs have purchased property elsewhere in the country, married into other families, died, or explicitly said they do not intend to return. Of the remaining 3,000 potential IDPs about half are from the enclave of Artsvashen, which today is controlled by Azerbaijan. Return there is thus not possible.<sup>31</sup>

Up until the completion of the NRC mapping project, several factors contributed to the lack of a more precise picture of the IDP situation. First, in relation to the overall population of Armenia, and compared to other high-profile displacement crises, the number of displaced persons was relatively small. Second, the IDP population was not concentrated in any particular area, much less in camps or settlements, so they did not form a visible group. Moreover, official Government IDP figures included persons who fled to Armenia from Nagorno-Karabakh and technically are refugees rather than IDPs.<sup>32</sup>

Indeed, the Representative of the United Nations Secretary-General on Internally Displaced Persons found during his mission to Armenia in 2000 that:

the plight of the conflict-induced internally displaced had not received any particular focus at either the national or international level and that there was little awareness of the problem of internal displacement or the needs of the internally displaced and few programmes specifically designed to address their plight.<sup>33</sup>

## ***II. IDPs AND ELECTIONS***

The lack of reliable data on the exact number and location of IDPs in Armenia between the break out of conflict in 1991 and the conclusion of the mapping project in 2004 inevitably complicated efforts to assess their ability to exercise the right to vote. Indeed, the issue received no attention. In the available OSCE election monitoring reports, IDPs were not discussed as a specific group with distinct needs.<sup>34</sup>

Nor was any specific attention given to IDP voting rights, or indeed to IDP rights generally, in national legislation. These had to be inferred from the general provision in the Armenian Constitution assuring equality of all citizens and guaranteeing their rights and freedoms without discrimination.<sup>35</sup> It was argued that this guarantee would ensure for IDPs the right to vote on par with other citizens.<sup>36</sup>

Although national legislation protecting citizens' rights generally is applicable to IDPs, local legal experts contend that the absence of explicit legal definitions of IDPs in Armenian law complicates fulfillment and implementation of IDP rights. They point out that Government documents and legislation contain significant inaccuracies in the usage of the term "IDP." In 1998, a Law on Refugees amended the official Government definition of the term "refugee" to be consistent with the 1951 Refugee Convention. However, no specific reference to IDPs was introduced into national legislation, leading legal analysts to recommend the development of a national law on IDPs that would clearly articulate their rights.<sup>37</sup> The Electoral Law of Armenia, needless to say, does not contain any reference to IDPs.

According to the OSCE, elections held in Armenia since its independence in 1991 generally have not met international standards.<sup>38</sup> Of particular relevance to IDPs, problems of inefficiency and corruption in the voter registration system reportedly make it very difficult to register relocation. In addition, in order to register a new residence, the registrant must either be the owner of the property or be immediately related to the owner. Written notice by the owner, notarized by a lawyer, is required to register temporary or permanent residence of a non-immediate family member.<sup>39</sup> Absentee voting, furthermore, simply is not available.

Presidential Election, 24 September 1996 and Presidential Election, 16 and 30 March 1998: These elections were held under the 1996 Presidential Election Law.<sup>40</sup> Although the OSCE concluded in 1996 that "the law has been revealed to be wholly inadequate on the critical questions of the vote count, verification and aggregation of the results,"<sup>41</sup> time constraints due to the President's unexpected resignation did not allow for the law to be amended before the 1998 election.<sup>42</sup> In both elections, problems with registration were experienced widely on polling day; the OSCE noted that many voters did not appear on voter lists, which it urged needed to be considerably improved. Moreover, absentee voting arrangements were not available.<sup>43</sup>

A new election law was adopted on 5 February 1999.<sup>44</sup> In the assessment of the OSCE/Venice Commission, this law represented a basis for holding democratic elections in Armenia, although there were certain gaps in the law as well as provisions that were

problematic.<sup>45</sup> Although the OSCE/Venice Commission did not explicitly mention IDPs, one identified provision of concern was the requirement that citizens vote in the election districts where they were registered in the voter register. Moreover, the election law still did not contain provisions allowing absentee voting.<sup>46</sup> As regards voter lists, the new law gave voters the responsibility to verify the lists compiled by local authorities, and thus ensure they were able to participate in elections.<sup>47</sup>

Parliamentary Election, 30 May 1999: This was the first election during which the new election law applied. Many voters, however, had not been sufficiently informed of their responsibility to verify in advance that their name was included on the voter lists and were consequently unable to cast their ballot due to incorrect records.<sup>48</sup> On the whole, the OSCE concluded that “the poor quality of voter lists was one of the severest shortcomings during these elections.”<sup>49</sup> In addition, the OSCE noted that the consequences for voting eligibility were unclear in the cases where authorities had failed to reflect permanent residence in a voter’s passport, which was the required piece of identification.<sup>50</sup> This carried particular weight since electoral participation continued to be tied to local registration – a policy that was a carryover from the *propiska* system of residency requirements from the Soviet period.

Presidential Election, 19 February and 5 March 2003 and Parliamentary Election, 25 May 2003: Concerns about the low quality of voter lists were reiterated by the OSCE for these elections.<sup>51</sup> With regard to the parliamentary election, the OSCE pointed out that cooperation between different Government institutions involved in registering citizens was insufficient and impaired the registration process, particularly since Armenia had no centralized civil or voter registers.<sup>52</sup>

### ***III. MONITORING***

The considerable body of information available on the general conduct of elections in Armenia stands in contrast to the scarcity of data on IDPs’ ability to exercise their right to vote. Until recently there has been little information on the numbers, location and needs of the IDP population in general. But the extensive IDP mapping exercise now undertaken should remedy that and go some way toward enabling election monitoring organizations to focus on IDP voting rights as well.

### ***IV. RECOMMENDATIONS***

There exist significant gaps in electoral legislation and administration, which can have an impact on IDP voters, in particular as regards residency requirements and voter lists. In addition, there are no provisions for absentee voting. Coupled with weaknesses in registration systems, this represents a serious impediment to IDP voting. Towards addressing these shortcomings, the following recommendations are put forth:

- *Amend* the election law to include provisions for absentee voting in order to provide IDP voters with the option to vote in their place of permanent residence.

- *Introduce* an effective system of registration, which can address the specific challenges posed by displaced populations and would eliminate the restrictions posed by continued application of the *propiska* residency requirements.
- *Pay* focused attention to IDP voting in election monitoring and make recommendations for overcoming any obstacles to voting that IDPs face.

## **AZERBAIJAN**

*The electoral participation of IDPs in Azerbaijan is set against difficulties in the overall electoral process. Absentee voting is generally available for IDPs, enabling them to cast votes for candidates in their areas of origin. However, unclear procedural provisions adversely affect absentee voting arrangements, and it remains unclear the extent to which IDPs can fully and freely vote for candidates representing their current places of residence. In addition, inaccuracies with voter lists have impinged on IDPs' right to vote. Candidates, in particular from opposition parties, have also experienced restrictions on their interaction with displaced communities. Furthermore, the recent promotion of the Latin script has posed a language barrier for IDPs who wish to engage in the political process.*

### ***I. IDP SITUATION OVERVIEW***

The attempted secession of Nagorno-Karabakh, a largely Armenian enclave within Azerbaijan, triggered a war beginning in 1991 between Azerbaijan and local Armenian forces, supported by Armenia. The conflict, which resulted in Armenian forces' occupation of the enclave, caused mass internal displacement in Azerbaijan. There are currently at least 570,000 IDPs in Azerbaijan.<sup>53</sup> The conflict with Armenia also resulted in displacement within Armenia, particularly in districts bordering Azerbaijan. A cease-fire has been in place since 1994; however, a political solution to the conflict continues to be elusive.

A decade after their displacement, most of the displaced in Azerbaijan remain in temporary and substandard shelters, such as tent camps, makeshift huts, uncompleted buildings and railway wagons. They are also dependent on humanitarian aid. Basically, IDPs are deprived of opportunities for self-reliance in their "temporary" areas of residence for fear this would undermine the overriding political goal of their return to Nagorno-Karabakh. Nonetheless, there have been some improvements in recent years; in particular the Government has provided a number of IDPs with better shelter. A further demonstration of normalization of their situation would be to ensure that IDPs are fully and freely able to exercise their right to vote. Indeed, given their large number, IDPs could potentially use the political process effectively to articulate their concerns and ameliorate their current conditions.

### ***II. IDPs AND ELECTIONS***

A 2002 analysis by Azeri legal experts of Azerbaijan's laws in light of the Guiding Principles on Internal Displacement<sup>54</sup> found that national laws, on the whole, provide protection of the electoral rights of IDPs in the sense that all citizens of Azerbaijan are guaranteed the right to vote. Domestic legislation protects the political rights of all citizens and prohibits discrimination on any ground. There is, however, no explicit mention of IDP voting rights. Moreover, in outlining the rights and obligations of refugees and displaced persons, the Law on the Status of Refugees and Forcibly Displaced (Persons Displaced within the Country) Persons<sup>55</sup> speaks mainly to ensuring

education, health, and employment, but does not articulate the right to political participation.<sup>56</sup>

A further significant legal issue is the restriction on freedom of movement emanating from the *propiska* system of residency permits. A carry-over from Soviet times, this system means that citizens can only establish residency or change their place of residence with permission from the authorities.<sup>57</sup> Consequently, it ties their right to vote to approved locations.

Parliamentary Election, 12 November 1995: The 12 November 1995 parliamentary election was held on the basis of a new election law, which had been passed earlier that year. According to the OSCE/UN Joint Electoral Mission in Azerbaijan, the law generally met international standards despite being vague and insufficiently detailed in certain aspects.<sup>58</sup> In this election, displaced persons from Nagorno-Karabakh and adjacent areas also under Armenian military control voted in special polling stations for candidates from their home districts.<sup>59</sup> It is unclear, however, whether IDPs had the choice of voting instead for a candidate from their current place of residence. There is also little information about the adequacy of the registration process for IDPs. Overall, the OSCE/UN mission reported numerous infractions and concluded that poor implementation of the election law led to a generally flawed parliamentary election that did not meet international standards.<sup>60</sup>

Presidential Election, 11 October 1998: In the presidential election of 11 October 1998, the OSCE noted an improved overall electoral process, shaped by a new citizenship law, the official abolition of censorship and a review of the 1995 electoral law. Again, the OSCE concluded that significant sections of this law were vague and did not suffice to guarantee democratic elections. In particular, concerns were expressed about political influence on the Central Election Commission (CEC),<sup>61</sup> as well as unclear provisions governing the maintenance of voter lists.<sup>62</sup>

The conduct of this election again fell short of international standards, according to the OSCE. While some districts showed noteworthy improvement from the last election, other districts remained plagued by voting irregularities and procedural infractions.<sup>63</sup> With regard to the participation of displaced voters in this election, no information was provided. The OSCE, however, conveyed serious concerns with respect to the updating of voter registers,<sup>64</sup> a problem which may have had a serious effect on IDP participation.

Parliamentary Election, 5 November 2000: The parliamentary election held on 5 November 2000 was overshadowed by widespread election irregularities of such an extent that balloting had to be repeated in 11 constituencies on 7 January 2001.<sup>65</sup> According to the OSCE, 250,000 displaced voters were registered and entitled to vote in this election. Displaced voter lists were compiled with information gathered from the Ministry for Refugees and Displaced Persons<sup>66</sup> together with local authorities “in exile” (local authorities displaced from IDPs’ areas of origin).<sup>67</sup> Absentee polling stations were organized throughout Azerbaijan to accommodate IDP voting, and displaced voters cast their ballots for candidates from their places of permanent residence.<sup>68</sup>

It is noteworthy that no absentee balloting needed to be repeated due to irregularities.<sup>69</sup> However, the fact that the CEC did not issue detailed instructions on the procedures to be put in place for absentee balloting was a point of concern. According to the OSCE, this oversight “reduced the transparency of the process, led to an ad-hoc administration of the process, and prevented observers from following the registration and voting in IDP constituencies.”<sup>70</sup> In particular, it is unclear whether IDPs had the option to vote for seats in their present place of temporary residence as an alternative to voting, by absentee ballot, for candidates in their area of permanent residence.

Following the election, on 14 November 2000, IDPs held political demonstrations in Baku and charged that the governing party had cut their supply of electricity owing to their support for the opposition Musavat party in the election, and they demanded that it be restored.<sup>71</sup>

Furthermore, a study by the International Organization for Migration (IOM)’s Participatory Election Project (PEP), which based its findings on discussions with IDPs and a range of relevant actors, found several problems in relation to IDP participation in elections.<sup>72</sup> For one, the IOM/PEP report identified the increased Government use and promotion of the Latin alphabet as a barrier to IDP voting. At the time the IDPs were displaced the Cyrillic alphabet was widely and formally used; since that time they had little opportunity to adapt to the change to the Latin alphabet. They therefore experienced difficulties in comprehending public information about elections from such outlets as the Government and the media. As such, IDPs were at a disadvantage in the political process.<sup>73</sup>

Members of opposition political parties also raised concerns about the ability of opposition parties to campaign in IDP communities.<sup>74</sup> They also questioned the transparency of the electoral process and pointed out that IDP voting and registration was not open to local monitoring and as such could not be validated for authenticity and accuracy.<sup>75</sup>

In an IOM visit to an IDP camp at Sabirabad,<sup>76</sup> a group of forty IDPs (all men) did not convey any difficulties participating in the national elections and did not communicate concerns about the then up-coming 2003 presidential election. The IDPs informed IOM representatives that various party members had campaigned in their camp, that they had received leaflets about the election and that voting had taken place at 15 polling stations in previous elections in the presence of international observers. In addition, besides being knowledgeable in election procedures, several IDPs also reported having acted as members of the local Constituency and Polling Station Committees. Furthermore, some IDPs reported having access to various forms of media including radio, television, and newspapers, although the IOM reported that none of these forms of media were in evidence during their visit to the camp. Overall, the only concerns that were vocalized by the IDPs were that they did not feel qualified to run for public office, and that they wanted to return home. It must be noted that this meeting was in the presence of and facilitated by an official from the local Executive Authority.<sup>77</sup>

Presidential Election, 15 October 2003: The 15 October 2003 presidential election, the OSCE concluded, also did not meet international standards, and signified a lack of political commitment for genuinely democratic elections.<sup>78</sup> This was despite the fact that Azerbaijan had adopted a substantially improved election law on 27 May 2003. Developed with the assistance of the Council of Europe's Venice Commission and the OSCE, the new election law was deemed to now provide a unified framework for the conduct of referenda and presidential, parliamentary and municipal elections.<sup>79</sup> The new election law did not, however, provide for sufficient oversight over the inclusion of IDPs in voter lists and indeed on election day, frequent inaccuracies were found with the voter lists. Furthermore, IDP voters were registered in constituencies on an *ad hoc* basis rather than according to a procedure regulated by law.<sup>80</sup> Absentee voting arrangements were again made available for displaced voters from areas under Armenian control.<sup>81</sup>

In the end, however, IDPs continued to experience difficulties in freely and fully exercising their right to vote. Many reported being coerced to back Government party candidates, while opposition party candidates were repeatedly prevented from campaigning and meeting with IDPs.<sup>82</sup> Moreover, one scholar concluded that IDPs "remain a powerless force in domestic politics and few opposition parties have managed to reach out to these voters,"<sup>83</sup> as the governing New Azerbaijan Party had virtually excluded IDPs from domestic politics and prevented their involvement in the peace process with Armenia.<sup>84</sup>

### ***III. MONITORING***

Since IDP issues have a high profile in Azerbaijan, attention to IDP voting also figures in election monitoring. OSCE election reports concerning Azerbaijan typically make some reference to the electoral participation of IDPs, though this analysis could benefit from deeper examination of the obstacles and concerns noted. The 27 May 2003 election law significantly increased the rights of national and international election observers. Although numerous problems with accreditation continued to be reported, some 40,000 were reported to have domestic election monitors observed the 15 October 2003 presidential elections. In some polling stations, however, the work of these observers appeared to have been seriously obstructed.<sup>85</sup> The extent to which they paid attention to IDP voting, furthermore, was unclear.

### ***IV. RECOMMENDATIONS***

The Government of Azerbaijan recognizes the plight of IDPs and its responsibility to address their situation. It is encouraging that in recent years the Government has taken greater measures to alleviate their hardship and facilitate their temporary social integration. These efforts should now also extend to safeguarding the right of IDPs to vote and fully participate in the political affairs of the state. In particular, it is recommended that the Government:

- *Expressly protect* IDP voting rights in national legislation, including by amending the Law on the Status of Refugees and Forcibly Displaced Persons to include the right of IDPs to political participation.

- *Increase* transparency and accountability in the conduct of elections, including with regard to arrangements for IDPs. Steps towards this end should include the formulation and broad dissemination of clear guidelines on the administration of absentee voting and on provisions enabling IDPs to vote in their places of temporary residence.
- *End* the application of the *propiska* internal residence regime, which limits IDPs freedom of movement and, by extension, the full and free exercise of their voting rights.
- *Ensure* IDPs have full access to election-related information, including by making public information available in a language they understand.
- *Allow* all election candidates full access to IDPs.
- *Facilitate* the work of domestic election observers, ensuring they have safe and unimpeded access to carry out their functions.

## **BOSNIA AND HERZEGOVINA**

*The Dayton Peace Accords link the right to vote and the right to return, a key element of the peace process. To facilitate returns, absentee voting is therefore widely available. Despite significant improvements over the years, however, continued weaknesses in voter registration and in the implementation of provisions for absentee voting still affect the electoral participation of IDPs. Local capacity to manage the electoral process therefore needs to be developed further, taking into account the particular needs of IDP voters.*

### ***I. IDP SITUATION OVERVIEW***

The armed conflict which broke out in Bosnia and Herzegovina after the dissolution of the Socialist Federal Republic of Yugoslavia in 1992 had, by the end of the conflict in 1995, created more than one million IDPs. While about 980,000 refugees and IDPs had returned to their places of origin by late 2003, many to places where they were part of ethnic minorities, approximately 330,000 persons continued to be displaced within Bosnia and Herzegovina.<sup>86</sup> The state of Bosnia and Herzegovina today comprises two Entities, the Bosniac-Croatian Federation of Bosnia and Herzegovina and the Serb-dominated Republika Srpska, which both enjoy a high degree of autonomy and host similar numbers of IDPs. In the Republika Srpska, the ethnicity of the remaining IDPs is largely Serb, while in the Federation they tend to be Bosniac or Croat.

### ***II. IDPs AND ELECTIONS***

According to the 1995 General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Peace Accords), the return of displaced persons and the holding of free and fair elections are crucial elements of the peace process. Absentee voting procedures for IDPs have therefore received strong emphasis, though officially displaced voters are entitled to choose between voting in their place of displacement or in their pre-displacement residence. Since the signing of the Dayton Accords, citizens of Bosnia and Herzegovina have gone to the polls a total of seven times, for elections at various administrative levels.

Mostar Municipal Assembly Election, 30 June 1996: The city of Mostar, then administered by the European Union (EU), elected its Municipal Assembly on 30 June 1996. The EU-drafted electoral rules provided that citizens entitled to vote were those who had been registered in Mostar during the last national census carried out in Bosnia and Herzegovina in 1991, and who were still registered as permanently resident in the city on election day. This included refugees and IDPs from Mostar who were temporarily resident in different locations.<sup>87</sup> Absentee voting, however, was only available for refugees residing abroad. IDP voters therefore had to return to Mostar to cast their ballot there; displaced persons unable to travel to Mostar on the day were excluded from voting. In the end, approximately 18,000 IDPs did return to do so amid considerable efforts by the international community to guarantee their security.<sup>88</sup> For persons displaced to Mostar, however, the electoral rules implied that they were unable to vote there.<sup>89</sup>

Parliamentary Election, 14 September 1996: The national parliamentary election on 14 September 1996, by contrast, was governed by electoral rules annexed to the Dayton Peace Accords, which allowed for absentee voting.<sup>90</sup> Displaced voters were able to vote in one of three places:

- 1) in their place of permanent residence determined by the 1991 census; or
- 2) in their current residence at the time of the election; or
- 3) in their place of intended residence.<sup>91</sup>

While this last option was primarily aimed at returning refugees, it was also open to IDPs. The intent of the international community was to make IDP voting in the place of permanent residence the norm, thus hoping to facilitate the process of return and reintegration.<sup>92</sup>

In the end, some 187,000 Bosniacs and Croats displaced from the Republika Srpska and residing in the Federation, registered to vote for the municipalities in which they had been living in 1991, either through absentee ballots or in person. Only 59,000 opted to vote in their current places of residence. By contrast, merely 78,000 Serbs displaced from the Federation chose to vote there, while an overwhelming 241,000 opted to vote in their current residence in the Republika Srpska.<sup>93</sup> There were reports that Serb authorities had systematically pressured displaced Serb voters to register as voters in the Republika Srpska, sometimes tying humanitarian aid and government benefits to local electoral registration.<sup>94</sup> “As a result,” one report concluded, “the exception became the rule and the ability of the [Serb] internally displaced to freely exercise their right to vote was seriously undermined,” which also served further to cement ethnic divisions in Bosnia and Herzegovina.<sup>95</sup>

In addition, flaws in voter registration meant that thousands of voters were unable to cast their ballots because they did not appear on voters lists. While the OSCE issued instructions on polling day for such voters to verify their identity and register in person at the Local Election Commission (LEC) office, this guidance came late in the day when many eligible voters had already returned home without voting. Compliance with the instructions was particularly difficult for displaced voters returning to their places of permanent residence, many of whom, due to the uncertain security environment, did not dare leave secured polling stations to reach the LEC office.<sup>96</sup> There were also serious concerns about the ability of displaced persons to return to their former places of residence in order to vote without fear or intimidation. Moreover, the authorities often failed to provide adequate public transportation for voters to return to their permanent residence.<sup>97</sup> Furthermore, there were reported instances of fraud with absentee voting forms, and the number of polling stations for IDPs returning to their 1991 places of residence to cast their votes proved insufficient.<sup>98</sup> Reportedly, long lines at polling stations and the problems experienced with the census triggered riots in a number of absentee voting stations.<sup>99</sup>

Municipal Elections, 13-14 September 1997: By the time of the municipal elections on 13-14 September 1997, the OSCE had amended some electoral rules to improve electoral administration, and in particular improved procedures to ensure accurate voter

registers.<sup>100</sup> Displaced voters continued to be expected to vote in their place of permanent residence as of 1991, either in person or by absentee ballot. But they were still able to opt to vote in their place of current residence, provided they had been resident there since before 31 July 1996.<sup>101</sup> In this case, accepted identity documents were limited to residency receipts and displaced persons' cards issued by the authorities on or before that date. Those who lacked identity documents had access to appeals procedures to prove their residence eligibility. However, this appeals program was unable to accommodate the high number of IDPs unable to furnish documentation, and as a result eventually broke down.<sup>102</sup>

Moreover, in a new development, the option of voting in the intended place of residence was no longer available for displaced persons; it was reserved only for returning refugees. This change, according to one expert, was designed to protect IDPs from being forced to register in particular municipalities against their will, as had happened in the past.<sup>103</sup> However, despite overall improvements with regard to fraud and manipulation in these elections, manipulation in the registration process as well as intimidation (intended to prevent displaced voters from registering in their pre-1991 residences) continued to be observed.<sup>104</sup>

General Election, 12-13 September 1998: For the elections in 1998 and 2000, there appeared little evidence of continuing intimidation and fraud, but analysts cautioned that this might also mean that such practices merely remained undetected.<sup>105</sup> In the general election of 12 and 13 September 1998, IDPs were able to vote in the same way they had in the September 1997 election, in either their place of permanent or current residence. The residency requirement for IDP voting in their places of current residence, however, was reduced to only six months prior to the election (since 1 March 1998).<sup>106</sup>

Municipal Elections, 8 April 2000: The data available on IDP participation in the 8 April 2000 municipal elections as well as the 11 November 2000 general election is somewhat limited.<sup>107</sup> Prior to the municipal elections, the international community took further steps to protect the electoral rights of IDPs.<sup>108</sup> Displaced voters continued to be able to vote either in their 1991 permanent residence or in their current residence, provided they could furnish documentation to prove they had lived in their current residence for six months prior to the elections. In addition, they were eligible to opt to vote in the municipality that had been their permanent residence between the 1991 national census and the official outbreak of war on 6 April 1992.<sup>109</sup> Voting could be done in person or by absentee ballot.

In a general assessment of this election, the International Crisis Group (ICG) contended that "the international community can draw a degree of comfort from the results of Bosnia's 8 April 2000 municipal elections."<sup>110</sup> This conclusion is based on the fact that moderate leaders scored significant successes, that no incidents of election-related violence were recorded and that the process was generally deemed to be free and fair. At the same time, the ICG pointed out that the majority of the country's municipalities continued to be governed by nationalist parties.<sup>111</sup>

General Election, 11 November 2000: In the nation-wide general election of 11 November 2000, IDP voting was largely governed by the same rules that were put in place for the municipal elections earlier that year. The one significant change was that displaced voters were also allowed to choose to vote in the places of residence they had taken up after the national census and before attaining displaced person status, i.e. the time limit of 6 April 1992 was removed.<sup>112</sup> However, the ICG's overall assessment was markedly more critical, contending that the election marks "the bankruptcy of the international community's policies for peace implementation," and that a functioning multi-ethnic democracy in Bosnia-Herzegovina is still a long way away.<sup>113</sup> Its report observed that ethnic divides continued to be exploited politically, representing a challenge to the overall peace process.

Analyzing the participation of IDPs in the elections up to 2000, Simon Bagshaw concluded that "[d]espite a relatively promising start in Mostar in June 1996, the elections have to a large extent been marred by serious abuse of voter registration procedures, as well as problems of freedom of movement which have had a negative impact not so much on the right of the internally displaced to vote as on their right to vote in the specific location to which they are entitled to vote under the electoral legislation."<sup>114</sup>

General Election, 5 October 2002: More detailed information with regard to IDP participation is available for the 5 October 2002 general election. As the first post-Dayton general election administered by national authorities themselves, it represented a key political milestone for Bosnia and Herzegovina. The scheduling of elections also changed, as all State and Entity offices were to be filled for full four year terms, rather than two year terms as had previously been the case.<sup>115</sup> Most significantly, a new election law was in place.<sup>116</sup>

The election law provides a number of ways for displaced persons and refugees to register for elections and cast their vote:

- 1) according to their permanent residence, as established in the 1991 census;
- 2) according to their residence at the time of their displacement; or
- 3) according to their current residence, if established at least six months prior to election day.

If displaced voters opted for one of the first two choices, they could then choose to cast their ballot either at a polling station in their permanent residence or by absentee ballot in their place of current residence.<sup>117</sup> If no choice were made, the law establishes the first option (registration in the place of permanent residence) as the default option.

Furthermore, the law sets forth that "[n]o citizen of Bosnia and Herzegovina shall forfeit any right or entitlement because he or she has registered as a voter or because his or her registration to vote for a municipality is not the one in which he or she currently resides."<sup>118</sup> It also stipulates that no person shall be required to produce official identity documents for purposes other than voting.<sup>119</sup> According to the OSCE, these provisions

were geared towards displaced persons and refugees in particular and designed to ensure that voters did not risk any of their rights as a result of their chosen registration option.<sup>120</sup>

At the same time, the electoral law bars citizens from voting in their current place of residence,<sup>121</sup> or becoming a candidate in elections,<sup>122</sup> if they are occupying property for which they do not hold ownership or occupancy rights and a restitution order for that property has been issued by a competent court or administrative authority. To exercise voting rights in their current place of residence, they must vacate the property. Failing this, they can register to vote only in their permanent residences.<sup>123</sup> The electoral law therefore closely intertwines the right to vote with the right to property restitution and, by extension, displaced persons' right to return, which has been a cornerstone of the Dayton Peace Accords. The Council of Europe's Venice Commission<sup>124</sup> has criticized these provisions as too complicated and cast doubts on the implementation of the provisions connected with property restitution.<sup>125</sup>

According to the OSCE, the electoral law generally "provides the necessary framework for the administration of democratic elections in Bosnia and Herzegovina for the 5 October 2002 elections."<sup>126</sup> At the same time, the OSCE criticized the electoral rules and procedures prescribed by the law as overly complicated and felt that certain provisions of ethnic representation in the constituent Entities were incompatible with international legal standards. In addition, it pointed out that the provisions on excluding citizens from elections on legal grounds were not sufficiently transparent.<sup>127</sup>

On the whole, however, the 2002 election process was deemed by the OSCE to "mark important progress towards the consolidation of democracy and rule of law under domestic control."<sup>128</sup> A total of 2,347,204 persons registered for this election, of whom 171,545 were absentee voters.<sup>129</sup> The OSCE pointed out that, despite frequently negative campaigning and little debate on substantive issues during the campaign, voters did in fact have a genuine choice.<sup>130</sup> However, problems continued to be reported with respect to voter registration and absentee voting. The OSCE reported cases of prospective voters having been turned away at a number of polling stations and, based on statistics from the OSCE Election Observation Mission, estimated that as many as 10,000 voters may have been unable to vote because they did not appear on voting lists. Local monitoring organizations, the OSCE noted, put the figure of those unable to vote substantially higher at 25,000 or one percent of all registered voters.<sup>131</sup>

In addition, the OSCE reported a "strikingly low" 33.3 percent voter turnout at absentee ballot stations, where "internally displaced voters displayed a substantially higher abstention rate than those voting in regular polling stations."<sup>132</sup>

Municipal Elections, 2 October 2004: According to the Central Voters Register, a total of 2,317,014 voters registered for these elections, of which 27,458 of them were absentee voters. While the number of persons registered as absentee voters decreased by 27,000, the number of voters registered as regular voters increased by 12,000. This means that, in total, slightly fewer voters were registered for the 2004 municipal elections than for the 2002 General Election.<sup>133</sup> In their Statement of Preliminary Findings, the OSCE and the Council of Europe concluded that "[d]isplaced persons were free to return to their pre-

war municipalities both to register and to vote.”<sup>134</sup> However, absentee voting was also available.<sup>135</sup> At present, no further information is available on IDP voting in these elections.

### ***III. MONITORING***

A large number of organizations have been active in observing political developments in Bosnia and Herzegovina. As IDP issues have a high profile in Bosnia and Herzegovina, IDPs are generally well covered in election monitoring. To facilitate monitoring, the OSCE has recommended a clarification of the rights of election observers under the 2002 election law as well as a streamlining of the procedures for accreditation. However, in the 2002 general elections, domestic observers reported few difficulties in obtaining access to election proceedings.

### ***IV. RECOMMENDATIONS***

The electoral participation of IDPs is an important aspect of the complex political transition currently underway in Bosnia and Herzegovina, and should continue to represent a key element in overall strategies for supporting the further development of democratic structures. With specific reference to IDPs, the following measures should be taken:

- *Address* the remaining weaknesses in voter registration, and in line with OSCE recommendations, make special efforts to regularly update voter registration databases. To do so, the cooperation and commitment of all political parties and administrative levels is critical to ensuring IDP participation in the electoral process.
- *Make use* of international expertise to address weaknesses in the election process, including registration, while building local expertise and technical capacity for election administration among national and local authorities.
- *Increase* efforts at data collection and monitoring of IDP voting in order to better understand and address the existing barriers to electoral participation of IDPs. The reasons behind the strikingly low 33.3 percent turnout at absentee ballot stations in the 2002 general election, which particularly affected IDPs, should be thoroughly examined and recommendations for corrective measures developed.
- *Simplify* election procedures, including the voting system, as recommended by the OSCE.
- *Promote* greater popular understanding of the political process and electoral procedures, including by providing specific information to IDPs on the particular procedures applicable to them.

## **CROATIA**

*The ability of IDPs in Croatia to exercise their voting rights has depended on minority protection, which over time has significantly improved. Initially, a legal distinction between Serb and Croat IDPs resulted in discriminatory practices, in particular as regards polling arrangements and voter registration. In recent years, however, significant improvements in the electoral process and arrangements for absentee voting have facilitated IDPs' exercise of the right to vote. In the most recent parliamentary elections in 2003, no discrimination against Serb IDPs was observed. Ethnic Serbs nonetheless continue to experience difficulties in accessing documentation, which likely impedes their electoral participation.*

### ***I. IDP SITUATION OVERVIEW***

Following Croatia's independence in 1991, internal displacement was caused by the hostilities that took place when Serb majority areas seceded and became the Republika Srpska Krajina in 1992, and were subsequently recaptured by Croat forces in 1995.<sup>136</sup> By mid-2003, there remained approximately 15,800 IDPs in Croatia, of whom about 3,300 were of Serb ethnicity.<sup>137</sup> Legal and administrative discriminatory practices, in particular with regard to the return of property, have acted as obstacles to Serb returns.<sup>138</sup> Similar restrictions also have posed barriers to Serb IDPs' political participation, though these are now largely removed.

### ***II. IDPs AND ELECTIONS***

An earlier assessment of IDPs' right to political participation in Croatia concluded that "discriminatory practices against the displaced Croatian Serb minority in terms of access to documentation and voting procedures has been a notable feature of elections in 1997 and 2000 respectively."<sup>139</sup> These discriminatory practices were rooted in a legal distinction between "expellees," who were mostly Croats, and "displaced persons," who almost always were Serbs. This distinction posed particular problems in parliamentary elections.

Local Elections, 13 April 1997: Under the terms which governed transfer of power to the UN Transitional Authority for Eastern Slavonia (UNTAES),<sup>140</sup> the 60,000 ethnic Serbs who had been displaced to Eastern Slavonia were entitled to full electoral participation, provided they had been resident in the region prior to the establishment of the UNTAES mandate on 15 January 1996. They were thus given the option of voting either in their current voting district or the area they lived in during 1991 before being displaced.<sup>141</sup> In the run-up to these elections, however, Serb voters encountered significant problems in obtaining the identity and citizenship documents necessary for registration. Complications consequently arose on polling day, when many displaced Serbs were unable to furnish the required documents and therefore could not vote. In addition, voting lists were missing altogether in 13 locations. While the OSCE attributed most of these problems to the tight schedule for the elections, many Serb voters were reported to have alleged deliberate obstruction of their participation by Croat authorities.<sup>142</sup>

Parliamentary Elections, 2 and 3 January 2000: These elections witnessed a number of discriminatory practices that were rooted in a legal distinction in national law between “expellees,” who were mostly Croats, and “displaced persons,” who almost always were Serbs. In a number of places, voting lists were faulty and Serb IDPs had to undergo a particularly complex administrative process to ensure that their names were included.<sup>143</sup> Moreover, Serb IDPs had to vote at separate polling stations, which were grossly inadequate in number: while 309 polling stations were provided for “expellees,” only two polling stations were available for “displaced persons.” As a result, Serb IDP voters sometimes had to travel long distances and endure long delays in order to vote.<sup>144</sup> In addition, the OSCE observed that Serb voters sometimes faced discrimination and even hostility from polling station staff who, in some instances, outright denied them the right to vote.<sup>145</sup>

Presidential Elections, 24 January and 7 February 2000: Similar problems were reported in these elections, as “displaced” persons reportedly had to undergo especially burdensome registration procedures and voting lists were inaccurate. The OSCE noted a low turnout among “displaced” voters and attributed this to the negative experiences they had undergone in the two previous elections. The OSCE reiterated its earlier recommendation that the distinction between “expelled” and “displaced” voters be abolished.<sup>146</sup>

Local Elections, 20 May 2001: In its general assessment, the OSCE concluded that these elections were in line with international standards and overall demonstrated further improvement over previous elections.<sup>147</sup> A new local election law<sup>148</sup> had been passed just prior to polling day, which according to the OSCE “provided an adequate framework for holding democratic elections.”<sup>149</sup> At the same time, however, the OSCE underlined that the late introduction of the law had meant that political parties and election commissions were insufficiently familiar with electoral proceedings.<sup>150</sup>

Under the new local election law, minorities were to be represented in local government proportionate to their percentage of the local population,<sup>151</sup> based on the registration of voters’ ethnicity.<sup>152</sup> The OSCE, however, voiced concern about the unclear implementation of rules for such ethnic proportionality, and noted that the level of representation for different ethnic groups was based on the results of a 2001 census, which did not clearly spell out how it incorporated refugees, displaced persons or Croatians living abroad into population statistics.<sup>153</sup> The practice of registering and thereby exposing voters’ ethnicity, furthermore, could actually result in putting minorities at risk.<sup>154</sup> This concern was highly relevant for displaced ethnic Serbs who often faced discrimination and even hostility. Furthermore, since the local election law did not foresee separate elections for minorities, the OSCE felt that there was no justification for identifying the ethnicity of voters on polling day.<sup>155</sup>

On polling day, however, shortcomings in the provision of absentee polling stations continued to reveal the distinctions made between Serb and Croat IDP voters. According to instructions issued by the State Electoral Commission (SEC), all IDPs were to cast their ballots for their places of permanent residence as absentee voters. It was left to town and municipality election commissions to determine precincts (polling stations) for the

displaced and expelled persons from their area, taking into consideration the location of the larger groups of expelled and displaced persons.<sup>156</sup> Marked discrepancies along ethnic lines arose: of the 10,600 IDP voters covered by this regulation, the 9,000 ethnic Croat voters were provided with 58 special polling stations, while the 1,600 ethnic Serb voters were only provided with three.<sup>157</sup>

The OSCE reported a number of additional concerns. These included whether displaced ethnic Serbs had been adequately informed about voting procedures, particularly whether those who had lost their “displaced person” status knew that this meant they would have to vote in person in their place of permanent residence rather than by means of absentee ballot. The OSCE also questioned whether Croat IDPs were in need of absentee voting provisions at all, given that there were no longer any significant impediments to freedom of movement.<sup>158</sup>

The OSCE further relayed some general concerns with the accuracy of voting registers and noted that “some of the more serious incidents reported during the [election] day related to polling stations for displaced persons, in Vukovar and Zagreb, with hundreds of voters finding that they were not on the register.”<sup>159</sup> While election officials stated that this was due to these persons having lost their displaced person status and therefore having to vote in person in the place of their permanent residence, the OSCE found it difficult to assess the validity of these claims.<sup>160</sup>

Parliamentary Election, 23 November 2003: Since the legal distinction between absentee and displaced voters was deleted from national legislation in 1999, the 2003 parliamentary election was the first in which no discriminatory differentiation between Serb and Croat IDPs was recorded.

Other significant improvements occurred in the lead-up to this election, such that the OSCE decided that the pre-election environment did not warrant the deployment of a full observation mission.<sup>161</sup> Overall, the OSCE drew a positive conclusion with regard to the administration of this election.<sup>162</sup> The parliamentary election law<sup>163</sup> governing electoral proceedings had recently been amended to, *inter alia*, incorporate constitutional provisions for minority representation in parliament.<sup>164</sup> Eight minority representatives were to be elected from among different minority groups in separate national constituencies under a “first-past-the-post system,”<sup>165</sup> up from five in the previous elections in 2000. Among these representatives, three represented the Serb minority.<sup>166</sup>

While the OSCE found “less evidence of defects in registers and took note of improvements in voter inspection and correction procedures,”<sup>167</sup> it noted some confusion about the procedures for minority voting. The SEC opted to grant minority voters the choice between regular and minority registration,<sup>168</sup> although this was no longer explicitly required by the parliamentary election law.<sup>169</sup> According to the OSCE, some minority voters were distressed to find that they had automatically been included in the minority category of the electoral register on polling day; voting registers appear to have been pre-divided into a regular part and six separate sections for minorities. It is unclear, however, exactly how many minority voters voiced this concern.<sup>170</sup> In any case, according to the OSCE, most minority voters proceeded to vote in the regular elections

and not for minority representation.<sup>171</sup> According to other observers, however, such confusion primarily reflected a lack of voter education in the electoral procedures and the fact that the SEC is not a permanent body that could coordinate voter education campaigns.<sup>172</sup>

The OSCE did not note concerns specific to IDP voters in this election. Under the system of absentee voting used, displaced voters were entered into the electoral register of their temporary residence, but voted for the constituency in which they have permanent residence.<sup>173</sup> Displaced minority voters thereby had a choice between voting for the general list and casting their ballot as minority voters. Furthermore, no distinction was observed between the treatment of ethnic Croat and ethnic Serb voters.<sup>174</sup>

In early 2004, it was reported that ethnic Serbs continue to face difficulties in validating legal and administrative documents issued by the Republika Srpska Krajina between 1991 and 1995. Ethnic Serbs also face difficulties in obtaining recognition of birth certificates.<sup>175</sup> Similar problems have been reported when Serb residents of Croatia seek citizenship.<sup>176</sup> Given the importance of identity documentation for voting, the difficulties Serbs face in obtaining such documents could prove a problem in the exercise of voting rights.

### ***III. MONITORING***

In the case of Croatia, the electoral participation of IDPs regularly figures in reports of the OSCE as well as other organizations. For the most part, it tends to be framed by analysis of minority participation in the electoral process. In this respect, special mention should be made of the active role played by the OSCE Mission to Croatia along with the European Union in improving access by minorities and IDPs to the political process. Along with this, Croatia appears to be developing a strong domestic monitoring capacity through the activities of local non-governmental organizations. Particularly noteworthy is the organization GONG which also provides information on the situation of displaced voters. Indeed, the strength of domestic monitoring has been cited by the OSCE as the reason for its decision to scale back its election monitoring activities in Croatia.

### ***IV. RECOMMENDATIONS***

In general terms, respect for IDP voting rights in Croatia has incrementally grown in tandem with the maturing of democratic structures in Croatia. As the country moves towards a further strengthening of its electoral processes, particular attention should be paid to the following recommendations to address outstanding concerns about how IDPs exercise the right to vote:

- *Spell out* more clearly the rights of IDP voters with regard to the legal framework for elections, including clarification of procedures for absentee voting.

- *Ensure* that administrative practices related to elections take into account the special needs of minorities and IDPs, including by providing adequate numbers of polling stations in areas which are easy and safe for minority and IDP voters to access.
- *Intensify* efforts to improve the quality of electoral registration.
- *Strengthen* efforts to inform minority voters, including IDPs, of the electoral procedures in place to enable them to exercise their right to vote.
- *Remove* barriers experienced by ethnic Serbs in obtaining identity documents.

## CYPRUS

*On both sides of the divided island of Cyprus, IDPs' right to vote does not appear to be restricted in any way in the areas where they now live. From all accounts, the advanced degree of integration of displaced populations into local communities extends to political integration, including the right to vote. Of concern, however, are the restrictions on voting experienced by minority populations in the south, which would affect IDPs of the minority ethnic group, should they return.*

### ***I. IDP SITUATION OVERVIEW***

The island of Cyprus has been divided since 1974 when a military coup backed by the Government of Greece led to the Turkish invasion of the northern part of the island. Nine years later in 1983 the Turkish-controlled northern area declared itself the Turkish Republic of Northern Cyprus (TRNC), which is recognized only by Turkey. The conflict and subsequent partition of the island into the Turkish-Cypriot north and the Greek-Cypriot south resulted in mass displacement between the two parts of the island, with the flight of between 180,000 to 200,000 Greek Cypriots to the south; and some 50,000 to 60,000 Turkish Cypriots to the north.<sup>177</sup> Thirty years on, the conflict and displacement situation have yet to be resolved.<sup>178</sup>

Currently, an estimated 265,000 persons, or one-third of the population of the island, remain displaced, with approximately 200,000 Greek Cypriots in the south and 65,000 Turkish Cypriots in the north.<sup>179</sup> A mere 500 Greek Cypriots reportedly remain living in the Turkish-controlled north. The Council of Europe has expressed concern that there exists a deliberate policy on the part of the “TRNC authorities” to isolate members of this community in an effort to compel them to leave for the south of the island,<sup>180</sup> although this trend has recently begun to reverse with an apparent change in policy on the part of the TRNC authorities.

While the protracted displacement crisis on the island of Cyprus shares some resemblance to other long-standing displacement situations in the world, it is unique in a number of ways. First, the humanitarian needs suffered by the population at the outset of the displacement crisis have largely been addressed. Second, in both the north and south, there is a high level of integration of the displaced into the areas where they fled, which has been supported by the respective authorities. Notwithstanding this high level of integration many IDPs, particularly Greek Cypriots in the south, continue to express the desire to return home. Moreover, on both sides of the island, issues of property restitution or compensation remain to be resolved.<sup>181</sup>

## ***II. IDPs AND ELECTIONS***

IDPs' high level of local integration is such that issues of political participation do not arise. There are no reports of IDPs experiencing difficulty exercising their right to vote.

Of concern, however, is the fact that in the separate electoral processes that are held for the administrative systems governing both sides of the island (which, in the case of the northern part of the island, are not internationally recognized), minority populations have been barred from voting. Specifically, Greek Cypriots who remained in the northern part of the island can vote in elections in the south but are unable to vote in elections administered by the authorities in the north,<sup>182</sup> while Turkish Cypriots living in the south are barred from participating in elections there.<sup>183</sup> These restrictions would affect IDPs of the minority ethnic group, should they return.

In 2003, Greek-Cypriot authorities pledged to endorse legislation allowing Turkish Cypriots living in the south to participate in local elections.<sup>184</sup> However, it is unclear whether this pledge was fulfilled. On the other hand, in preparation for its accession to the European Union on 1 May 2004, the Greek-Cypriot Parliament passed a law on 29 January 2004 giving all Turkish Cypriots, whether they lived in the north or south, the right to vote in the European parliamentary elections as long as they formally registered with the recognized Cypriot authorities. These elections, which were held in June, represented the first time in decades that Greek and Turkish Cypriots throughout the island had been able to vote together in the same election.<sup>185</sup>

## ***III. MONITORING***

There are no OSCE election monitoring reports available on elections in Cyprus.

## ***IV. RECOMMENDATIONS***

Although there are no reports of IDPs experiencing difficulties when taking part in elections, minority populations have experienced discrimination in exercising their vote. If this is not corrected by the new legislation, IDPs of minority groups will face problems upon returning. It is therefore recommended:

- *Confirm* the ability of IDPs to fully and freely exercise their right to vote in any international or domestic election.
- *Ensure* that minority populations are permitted to take part in local elections without discrimination.

## **GEORGIA**

*Significant improvements have occurred in Georgia in recent years as regards IDP voting rights. Until August 2003, the voting rights of IDPs were expressly restricted in national legislation. Though IDPs could participate in presidential elections and the proportional component of parliamentary elections, they could not participate in local elections or in the component of parliamentary elections selecting the parliamentary deputy representing the district where they currently reside. These restrictions on IDP voting rights, however, began to attract considerable attention in national, regional and international fora, where changes to national legislation were strongly urged. Starting in August 2001 and in a process that continued until August 2003, the discriminatory provisions regarding IDP voting were removed from national legislation. The case of Georgia therefore demonstrates the power of advocacy on the issue of IDP voting rights to effect concrete reforms guaranteeing the right of IDPs to political participation.*

### ***I. IDP SITUATION OVERVIEW***

**I**nternal displacement in Georgia is a result of secessionist conflicts that began in the former Autonomous Region of South Ossetia in 1989 and in the Autonomous Republic of Abkhazia in 1992, which produced some 20,000 and 260,000 IDPs respectively. Current figures place the number of IDPs in Georgia at 260,000.<sup>186</sup> Cease-fires to the conflicts have been in place for more than a decade and largely have held, with the exception of an outbreak of hostilities and renewed displacement in Abkhazia in 1998. However, political solutions to these conflicts and the possibility of large-scale return of the displaced remain elusive. At the same time, because political imperatives have led the Georgian Government to promote return as the only solution to internal displacement, IDPs for many years have been impeded from integrating – economically, socially, politically – in the areas they reside. Recently, however, the Government has begun to help the displaced with housing and also has shown willingness to make important changes in the ability of IDPs to exercise their right to vote.

### ***II. IDPs AND ELECTIONS***

Article 28.1 of the Constitution of Georgia (1995) provides that every citizen 18 years of age and older has the right to participate in referenda and elections. For IDPs, however, until recently national legislation restricted this right in parliamentary and local elections.

#### *Parliamentary Elections*

As set out in Article 49(1) of the Constitution, the Georgian Parliament is elected by a mixed election system, whereby 150 seats are allocated proportionally through nationwide party lists, while the remaining 85 members are elected through a majoritarian system based on single-seat electoral districts. According to the 1995 “Organic Law of Georgia on Parliamentary Elections”, IDPs were entitled to vote only in the proportional component of the elections, but not in the majoritarian component

concerning the representative to Parliament for the district in which they are residing while displaced.<sup>187</sup>

IDPs were not permitted to vote for parliamentary representatives from their place of “temporary” residence on the grounds that they already had representation in Parliament by the deputies from Abkhazia. National law had extended the mandates of the eight deputies from Abkhazia, who were last elected in 1992, until such time that central government control could be established over Abkhazia and Georgian parliamentary elections could be held there again; the seats of the two deputies from South Ossetia were to remain vacant until similar conditions were established in that region.<sup>188</sup> For these reasons, at a roundtable on the conformity of Georgian law with the Guiding Principles on internal displacement, it was emphasized that “the right to vote includes not only the right to elect, but also the right to re-elect according to time-limits provided by law” and that “[i]n this connection, the continually prolonged term of office of the deputies from Abkhazia in the parliament of Georgia can be considered a further limitation on the voting rights of IDPs.”<sup>189</sup>

Moreover, the indefinite extension of the mandate of the deputies from Abkhazia meant that IDPs could exercise no “democratic levers of influence” over members of parliament who ostensibly represent their interests, and they have no opportunity to replace them if they so wish.<sup>190</sup> Indeed, many IDPs indicated that they did not feel their views were being well-represented by the “Abkhaz Government in Exile”<sup>191</sup>; internally displaced women in particular have voiced wide discontent with the Abkhaz deputies, whom they perceive to be “genuinely uninterested in and out of touch with the issues and concerns of displaced people.”<sup>192</sup> At the same time, the Representative of the Secretary-General on Internally Displaced Persons pointed out that “because the displaced often depend upon the parallel system of services provided by the Government in Exile, they may feel compelled to refrain from openly expressing discontent with the current arrangement and demanding their right to vote for local and regional representatives.”<sup>193</sup>

### *Local Elections*

As regards local elections, the applicable electoral legislation specified that IDPs could not participate in the first local elections, to be held in November 1998.<sup>194</sup> Under Georgian law, participation in local elections is connected with an individual’s registered place of permanent residence. For an IDP to take part in local elections in the area where s/he resides while displaced, s/he would have to register in that locality as her/his new place of permanent residence. However, in Georgia, if an IDP obtains permanent registration in a place other than her/his place of origin s/he automatically loses her/his IDP status as well as the benefits that this entails.<sup>195</sup> Under these conditions, IDPs naturally were not eager to vote in local elections.

There were also concerns among IDPs that were they to vote for elected representatives of the areas in which they were residing, they would be accepting the *de facto* territorial situation and thereby would relinquish their right to return.<sup>196</sup> However, as one expert has pointed out:

Such fears, which are not dispelled by the Government for political reasons, are of course flawed: the right to return to one's place of origin and the right to vote at the local level...are not mutually exclusive. There is no reasonable or objective reason why the internally displaced should not vote for the representative of the area in which they "temporarily" are residing and at the same time not maintain the right to return, when the necessary conditions are achieved.<sup>197</sup>

Denial of the right to vote, it must be stressed, means much more than the inability to cast a ballot on election day. It also deprives IDPs of the ability to exert influence on elected officials to address their concerns. Moreover, as one study on the situation of IDPs in Georgia highlighted, because "access to services (e.g., education) and employment opportunities often relies on 'connections' with the elected officials, IDPs are at a disadvantage compared to the general population."<sup>198</sup>

Parliamentary Elections, 5 November 1995: For these elections, the legislation adopted in 1995 applied, that is, IDPs could vote only in the proportional component of the elections, but not the majoritarian component. OSCE/ODIHR, in its report on the elections, noted that while most IDPs knew their voting rights under the law, in some cases "quarrels broke out when those not familiar with the voting provisions demanded the ballot" for majoritarian elections. Indeed, concern was expressed that the presence of large numbers of IDPs at polling stations might impede the effective operation of some polling stations,<sup>199</sup> although no comment was made by the OSCE on the law itself.<sup>200</sup>

Local Elections, 15 November 1998: In these first elections of the bodies of local government ("Sakrebulo"), national law governing the electoral process stipulated that IDPs were ineligible from participating in the elections.<sup>201</sup> The OSCE, in its assessment of the elections, did not expressly mention IDPs and the restrictions on voting that they faced, but did suggest the need to review the "principles on the voting of temporary residents."<sup>202</sup> Following the 1998 local elections, a group of IDPs appealed to the Constitutional Court of Georgia with the request that the above-mentioned provision in the Law on Local Elections be declared unconstitutional and void as it violated their universally recognized right to vote (see below).

Parliamentary Elections, 31 October and 14 November 1999: Existing electoral legislation remained in force for these elections, such that IDPs could vote only in the proportional component of the elections but not for the parliamentarian representing the district where they resided. In this case, however, the OSCE took a stronger stand against this discriminatory provision, observing that the "partial participation of IDPs in the electoral process raises questions in terms of equality of rights" and "seems also to contradict the United Nations Guiding Principles on Internal Displacement."<sup>203</sup> Government representatives asserted that these voting arrangements accorded with the

wishes of the internally displaced whom, they claimed, “prefer not to vote in the single-member ballot as to do so would mean that they have taken permanent residence” which in turn, it was specified, would mean loss of state benefits and relinquishing their rights to return to their homes. The OSCE, however, pointedly noted that this latter assertion -- that by voting in the majoritarian elections IDPs would forfeit the right to return -- was “a mistaken belief.”<sup>204</sup> Although the OSCE’s report contained a number of recommendations on the concerns it had with the elections, no recommendations were made to ensure equality of voting rights for the internally displaced.<sup>205</sup> However, there was an overall recommendation that the “legal framework for elections in Georgia should be reviewed comprehensively in order to address the concerns outlined in this report.”<sup>206</sup>

Presidential Elections, 9 April 2000: Though there exist no legal restrictions on IDP voting in presidential elections, practical problems in IDP voting were reported. The OSCE/ODIHR reported severe discrepancies in voter lists and observed significant discrepancies, especially for IDP voters.<sup>207</sup> According to the International Organization for Migration, many election commission officials “had no clear grasp” of the rules enabling IDP voting and on election day “no chairman applied the same rules” concerning IDP voting.<sup>208</sup>

#### *Review of National Electoral Legislation*

IDP communities and civil society were particularly active in pressing for a review of national electoral legislation and for ensuring that this process included attention to the concerns over IDP voting rights. Following the 1999 parliamentary elections, the appeal lodged with the Constitutional Court concerning IDP voting rights in local elections was expanded to include requesting the Court to also declare void the discriminatory provisions governing parliamentary elections as well.

On the issue of local elections, the Constitutional Court, in its decision of December 2000, held that according to the legislation governing the local elections, the restriction on IDP voting specifically referred to the first elections of local representation bodies (“Sakrebulo”), which had been held on 15 November 1998, but not to future elections. The restriction at issue was thus “null and void already.”<sup>209</sup> Lawyers for the displaced, however, had pointed out to the Court that although it appeared from the wording of the legislation that IDPs’ right to vote would be restricted only in the first local elections, IDPs would nonetheless face obstacles to voting in subsequent local elections as a result of the registration requirements. To vote in local elections, IDPs would have to change the registration of their place of permanent residence from Abkhazia or South Ossetia to the locality in which they were residing; under the Georgian law on internal displacement, this would result in the loss of IDP status and the benefits it entailed.<sup>210</sup> The Court, however, did not address this issue and indeed dismissed the related request for declaring unconstitutional the provision whereby IDPs who changed their place of permanent residence lost their IDP status.

As regards parliamentary elections, the Court allowed the contested provision restricting the right of IDPs to vote in majoritarian elections to remain in force. The Court held that “Article 2 of the Constitution of Georgia which provides for the right of citizens to take

part in elections held in ordinary conditions may not have the same force in extraordinary conditions”, which internal displacement was considered to be, when different rules could apply.<sup>211</sup> Notably, however, the Court’s decision was not unanimous. A dissenting opinion held that the restrictions on IDPs voting in local elections as well as parliamentary majoritarian elections were unconstitutional and therefore should not apply to any future elections.<sup>212</sup>

Around the same time as the Constitutional Court case, the issue of IDP voting rights also began to receive considerable attention in international and regional fora. In 1998, the UN High Commissioner for Human Rights began to raise the issue of restrictions on IDP voting rights in local elections and urge legislative reform in bilateral representations with the Georgian Government.<sup>213</sup>

The right of IDPs in Georgia to political participation also was among the issues discussed at a regional workshop on internal displacement in the South Caucasus held in May 2000, and co-sponsored by OSCE/ODIHR, the Brookings Institution Project on Internal Displacement and the Norwegian Refugee Council. In response, a Government representative, while conceding that the regulations on IDP voting might need revision, sought to explain the reasons behind them, noting that under the old *propiska* system of residency permits that had been in force in the Soviet Union, the exercise of many rights was tied to an individual’s place of residence. Further, it was suggested that if the Government were to extend to IDPs the full rights to which they were entitled in their place of residence, this would effectively concede to “ethnic cleansing.”<sup>214</sup> The workshop nonetheless stressed that IDPs should be able to fully exercise their right to political participation.

Immediately following this regional workshop, the Representative of the UN Secretary-General on Internally Displaced Persons undertook an official mission to Georgia, during which he also pressed the Government on the issue of IDP voting rights. The Representative recommended that national legislation on electoral participation be revised to enable IDPs to participate in the election of local and regional representatives for the areas in which they currently reside. He reported that “a number of senior government officials at the national and regional level conceded that the current policy on political participation by the displaced required reform.”<sup>215</sup>

The Parliamentary Assembly of the Council of Europe similarly recommended that the Georgian authorities grant the right to vote in national and local elections to displaced Georgian citizens.<sup>216</sup>

Advocacy efforts on the issue also reached the UN Human Rights Committee,<sup>217</sup> which monitors state observance with the International Covenant on Civil and Political Rights. The Committee responded by calling upon the Georgian Government to explain how the restrictions on IDP voting rights in local and majoritarian parliamentary elections were compatible with the principles of universal and equal suffrage.<sup>218</sup> It also raised concerns about the loss of benefits IDPs would experience if they participated in the elections for officials representing their current place of residence.<sup>219</sup> The Georgian Government representative affirmed to the Committee that according to a new Electoral Code,

“internally displaced persons could take part in elections” and that when they did so they would not lose their right to receive social assistance.<sup>220</sup>

Indeed, the Georgian Government, in a statement to the UN Commission on Human Rights in 2002, indicated that it took very seriously the problems that IDPs face in participating fully in the civil and political decision-making processes that affect their lives. Parliament, it was announced, already had established a special commission for elaborating amendments to the elections law, which would include a stipulation that IDPs shall not be discriminated against as a result of their displacement in the enjoyment of the right to vote and to participate in governmental and public affairs.<sup>221</sup>

### *Electoral Reform: The Right to Vote in Local Elections*

In August 2001, the Parliament of Georgia adopted the Organic Law on the Unified Election Code of Georgia,<sup>222</sup> which removed the earlier restrictions on IDP voting in local elections. IDPs could henceforth participate in local elections according to their current place of residence. They would be included in voter lists based on data provided by the Ministry of Refugees and Accommodation (MRA).

While welcoming this change, Georgian legal analysts and civil society nonetheless pointed out that because of the concerns associated with the system of registration and how this could result in IDPs’ loss of status and benefits, until local elections actually were held, it was premature to pronounce that the right of IDPs to vote in local elections was, in practice, no longer restricted.<sup>223</sup>

It also was left unclear whether IDPs were eligible to stand for election to local government office. In order to register as a candidate in local elections, candidates were required to provide a registered address in the locality. IDPs’ identity documents, however, give as their address their place of residence prior to displacement. Were IDPs to register locally, they would lose all the economic benefits given to IDPs and, in addition, many feared, though erroneously, that they would also lose their right to return and to regain property upon return.

Local Elections, 2 June 2002: Further to the changes in electoral legislation, these were the first local elections in which IDPs were allowed to participate. In practice, however, problems arose, in particular in ensuring that IDPs’ names were on the voter lists. There were reported to be a number of cases where the lists of IDP voters to be compiled by the MRA and sent to district and precinct election commissioners were incomplete or not sent at all, leading to the conclusion that “proper attention has not been paid to the fulfillment of this politically significant decision involving IDPs’ participation in elections”.<sup>224</sup> Based on the experience of these elections, it has been recommended that mechanisms of cooperation between the MRA and the Election Commission should be introduced, along with greater accountability for officials charged with compiling IDP voter lists.<sup>225</sup>

### *Electoral Reform: The Right to Vote in Parliamentary Elections*

Further amendments to the Unified Electoral Code made in August 2003 introduced provisions enabling IDPs to vote not only in the proportional component but also the majoritarian components of parliamentary elections. In other words, IDPs could now vote for the member of Parliament representing the district in which they currently were residing. The mandates of the Parliamentary deputies from Abkhazia would nonetheless continue to be extended.<sup>226</sup>

The revised Unified Election Code of Georgia<sup>227</sup> affirms, in Article 5, the right of every Georgian citizen 18 years of age and older to vote in all local, Presidential and Parliamentary elections. Article 9 regarding the registration of voters contains a number of special provisions to enable IDPs to realize this right. In general, voter's data is to be entered in the general list of voters according to the place of his/her residence. In the case of IDPs, however, the law specifies that IDPs "shall be entered in the general list of voters at their actual place of residence", for which the place of "temporary residence shall be indicated". This provision means that IDPs no longer need to change their place of permanent residence and give up their IDP status in order to vote in their current places of "temporary" residence. As in local elections, IDPs' names are included in the general list of voters based on the data on IDPs provided by the Ministry of Refugees. On election day, and on the basis of the voter list, each voter is to be issued a ballot paper after they submit certain documentation; the new Election Code specifies that an IDP Certificate counts among the accepted pieces of documentation. Furthermore, the revised Code affirms the right of every citizen to be elected as a member of Parliament and representative of local government, without any apparent restriction, for example changing permanent registration, which would impede this right for IDPs.<sup>228</sup>

OSCE/ODIHR welcomed the revised Election Code and noted that it incorporated many of its recommendations. In this regard, specific mention was made of the provisions to "permit internally displaced persons electoral rights in majoritarian contests". Overall, the OSCE concluded that the Unified Election Code provided "an adequate framework for the conduct of democratic elections if implemented impartially and uniformly."<sup>229</sup>

Parliamentary Elections, 2 November 2003: These elections were the first governed by the significant amendments incorporated into the Unified Election Code in August 2003, according to which IDPs, for the first time, would be allowed to vote as well as stand for election in majoritarian as well as proportional elections, and without loss of IDP status or benefits.

Because this was to be the first time for IDPs to vote in these elections, organizations advocating on behalf of IDPs had underscored the importance of launching "a wide civil and public education campaign to raise awareness among officials in the election commissions and other bodies involved in elections, as well as among IDPs themselves, so that they could exercise their rights".<sup>230</sup> Under the UN-sponsored framework of the "New Approach to Internally Displaced Persons in Georgia" that had been launched in 2000, a public awareness and voter education campaign was launched to promote IDPs' awareness of their voting rights as well as their participation in the electoral process.

Some 3,000 posters with key information on elections and IDP voting rights were distributed throughout Georgia, including at IDP collective centers and in the offices of the local and district election commission. In addition, a video clip featuring the Chair of the Central Election Commission and providing information about IDPs' right to vote, was regularly broadcast on television stations.<sup>231</sup>

The Norwegian Refugee Council (NRC) was particularly active in the public awareness campaign to inform IDPs of the important changes in the electoral law. A pamphlet prepared by NRC and approved by the Central Election Commission of Georgia spelled out the changes for IDPs. It began by stating that "IDPs over the age of 18, being citizens, therefore also have the right to vote in all elections."<sup>232</sup> The pamphlet explained that "[a]s an IDP you will vote for the candidate running in the election district where you are temporarily registered." It also noted that IDPs could run as candidates for Parliament in any district, provided they meet the general requirements of being over 25 years of age and having lived in Georgia the previous two years. To encourage IDPs to exercise their newly reinstated right to vote, the pamphlet ended with a section on the importance of voting for IDPs:

Members of Parliament make important decisions about how Georgian society is to function. When making these decisions a Member of Parliament will respond better to those groups of people who vote... If you want IDP issues to be taken into consideration in Parliament you are responsible for voting for those candidates who will work towards improving the situation of IDPs.<sup>233</sup>

This first election in which IDPs could vote in majoritarian contests, however, was marred by significant problems with the conduct of the election overall. Despite a number of "positive aspects of this election" including an "improved legal framework" in which "internally displaced persons were in principle permitted to vote in majoritarian contests, as well as the proportional contests," the International Elections Observation Mission, a joint undertaking of the OSCE/ODIHR, the OSCE Parliamentary Assembly, the Parliamentary Assembly of the Council of Europe and the European Parliament, pronounced that the elections "fell short of a number of OSCE commitments and other international standards for democratic elections."<sup>234</sup> Particular problems concerned inaccuracies in the voter list, leading to "large numbers of voters being turned away...due to the omission of their names on the voter register" and, consequently, "a de facto disenfranchisement of a significant number of voters."<sup>235</sup> The OSCE/ODIHR, in its more comprehensive report on the elections, elaborated that the problems with the voter lists included "omitting entire apartment blocs or streets; voters being listed in the wrong districts; listing many deceased persons; and large numbers of duplicate entries" and "IDP voters not being systematically included in lists."<sup>236</sup> Overall, the OSCE reported that "polling was disorganized, slow and marred by serious irregularities," that there had been "serious violence and intimidation of voters" in the pre-election period and that there was "widespread and systematic election fraud during and after election day" of such a scale as to affect the election results.<sup>237</sup> Mass public demonstrations disputing the election results followed, culminating in the resignation of President Shevardnadze and the annulment by the Supreme Court of the results for the proportional contests. The

OSCE noted that “[r]egrettably, the results of the majoritarian elections, many of which were equally questionable, were not annulled.”<sup>238</sup>

However, in an important development following the election the Constitutional Court, in a decision on 7 November 2003, declared unconstitutional and void article 6.2(c) of the national IDP law containing the restrictive provisions regarding registration of permanent residence.<sup>239</sup>

Parliamentary Elections, 28 March 2004: Repeat parliamentary elections were held as a result of the nullification of the results of the parliamentary elections of 2 November. In all but two districts,<sup>240</sup> these elections concerned only the proportional component of the elections since the majoritarian elections of 2 November were not challenged, despite, the OSCE’s finding that many of these were “equally flawed.”<sup>241</sup> The OSCE report on the conduct of the election contains no reference to IDPs. However, among the identified problems which possibly may have had a bearing on IDP voting were that “potentially significant numbers of eligible voters lacked identity documents” and that “concern was expressed that some voters were registered at polling stations in places other than their official residence.”<sup>242</sup>

Indeed, it appears that many IDPs failed to exercise their right to vote. A survey on IDP voting that was commissioned by UNDP and undertaken by a consortium of Georgian research organizations determined that voter turnout among IDPs nationwide was only 35 percent, which was “much lower” than among the general population.<sup>243</sup> Among the reasons put forth to explain IDPs’ low voter turnout were that “IDPs are less optimistic and lack faith in [*sic*] the improvement of the situation in the country through the elections”. Because “IDPs are not able to assimilate with the population in [their] new places of inhabitation, [the] feeling of alienation is very strong” and “[t]herefore, IDPs do not interpret the elections as decisive” for them.<sup>244</sup> These findings suggest that securing, in national legislation, the right of IDPs to vote is just a first step towards their political participation. So often marginalized in society, IDPs will also need to develop a belief that political structures will be responsive to their concerns.

Finally, in a significant development, the mandate of the Abkhaz parliamentary deputies, who were last elected in 1992, was revoked by a decision of Parliament on 30 April 2004. Their seats will be left vacant until such time that parliamentary elections can be held again in Abkhazia. Reportedly, this decision was not unanimously welcomed by IDPs, some of whom felt that with the loss of these deputies in Parliament, there is no longer anyone in Parliament who shares their identity and, in an environment where “politics and representation is still a question of personal networks,” will really press for their interests.<sup>245</sup> This concern would seem to underscore the importance of IDPs themselves running for parliament, now that they are eligible to do so.

### ***III. MONITORING***

In 2000, a study on IDP voting rights noted that “the position of internally displaced persons in Georgia vis-à-vis political participation has been the subject of only limited scrutiny by ODIHR.”<sup>246</sup> Since that time, not only ODIHR but a wide array of actors at the international, regional, national and grass-roots level have been actively engaged in monitoring IDP voting rights in Georgia and advocating for changes in discriminatory national legislation. It is noteworthy that these efforts have borne fruit, with the removal of the restrictions on IDP voting. The case of Georgia therefore provides an important example of how attention to and advocacy on IDP voting rights can yield important results in stimulating national electoral reform enabling IDPs to fully exercise their right to vote.

### ***IV. RECOMMENDATIONS***

In recent years, IDP voting rights in Georgia have been greatly enhanced through the removal of restrictive provisions in national legislation. To build upon and consolidate these significant improvements, the following recommendations are put forth:

- *Continue* monitoring IDP voting to ensure that amendments now enabling IDPs to vote in all elections are consistently observed.
- *Identify* the particular barriers IDPs continue to face in having their names included on voter lists and introduce measures to remove these barriers in future elections.
- *Train* officials in the Ministry of Refugees and Accommodation as well as electoral officials at the central, district and precinct level in IDP voting rights and the arrangements provided for by law to enable them to exercise the right to vote.
- *Sponsor* voter education programs targeted to IDPs to promote not only awareness of their right to vote but their right to stand for election.
- *Monitor* and report on the extent to which IDPs are, in practice, able to stand for election in local as well as parliamentary elections.

## **FORMER YUGOSLAV REPUBLIC OF MACEDONIA**

*In the Former Yugoslav Republic of Macedonia insufficient implementation of the Ohrid Framework Agreement, as well as some general concerns about the electoral process present a number of difficulties to IDP voting. In particular, provisions for absentee voting procedures are inadequate and guidance with regard to the logistical arrangements for IDP voting is vague. Moreover, language barriers hinder informed voting on the part of those IDPs who speak only Albanian.*

### ***I. IDP SITUATION OVERVIEW***

Displacement is a relatively recent phenomenon in the Former Yugoslav Republic of Macedonia.<sup>247</sup> At the beginning of 2001, the National Liberation Army (NLA) was formed by ethnic Albanians who sought greater political rights for the country's Albanian minority, called for the adoption of Albanian as a second official language, and protested the difficulties experienced by ethnic Albanians in obtaining citizenship. Armed conflict broke out in northwestern Macedonia in March 2001. An internationally-brokered cease-fire in July 2001 was followed by a peace agreement on 13 August 2001, when the Government and the NLA signed the Ohrid Framework Agreement, which called for legislative and constitutional changes and enhanced minority rights. The agreement also contained provisions for the return of IDPs.

At the time of the Ohrid Agreement, approximately 74,000 IDPs were registered. In the months and years following the signing of the agreement, and as return movements got underway, the number of displaced steadily decreased, down to about 2,678 by January 2004. According to the International Committee of the Red Cross, 42 percent of the remaining IDPs were of Albanian ethnicity, 37 percent were of Macedonian ethnicity, and the remainder were of Serb, Roma and Bosniac origin.<sup>248</sup>

### ***II. IDPs AND ELECTIONS***

Parliamentary Election, 15 September 2002: The parliamentary election of 15 September 2002 was the first election to take place following the 2001 outbreak of conflict, and thus the first in which IDP participation was an issue. At the time, the number of IDPs totaled about 16,351.<sup>249</sup> Although the Government had drafted a new election law in 2001, this draft did not draw from election-related provisions of the Ohrid Framework Agreement, for instance as regards absentee voting, which was particularly relevant to IDPs.<sup>250</sup> Since it was likely that some IDPs would not be able to return before the 2002 parliamentary election, it was important that special guidelines be set up to facilitate their participation in the election. The OSCE noted the absence of such provisions in the 2001 draft election law and accordingly proposed different solutions, including special absentee voting procedures and programs to allow IDP voters to return to their home areas on election day.<sup>251</sup> Indeed, the OSCE had already noted in its report on the 1998 parliamentary election that "there is no provision for voting in another place within the country other than one's place of registration."<sup>252</sup>

With regard to the use of minority languages, furthermore, the Ohrid Framework Agreement specified that “in municipalities where a community comprises at least 20 percent of the population of the municipality, the language of that community will be used as an official language in addition to Macedonian.”<sup>253</sup> Such provisions, however, were not included in the 2001 draft election law.<sup>254</sup> Insufficient provisions for minority languages in the electoral process had already been identified as a weakness in the 1998 parliamentary election, when OSCE observers noted that the exclusive use of the Macedonian language, despite the existence of several minority communities, represented a barrier to minority political participation in several areas of the country.<sup>255</sup> The OSCE had reported similar problems in the 1999 presidential election with regards to posters outlining election information.<sup>256</sup>

The final version of the 14 June 2002 Law on Election of Members of Parliament in the Assembly of the Republic of Macedonia did not take into account the OSCE’s recommendations outlined above and, in particular, lacked provisions for absentee voting. In the months leading up to the 2002 parliamentary election, the OSCE as well as other international actors therefore encouraged the Government of Macedonia to seek alternative solutions to address the needs of IDPs.<sup>257</sup>

The Government of Macedonia subsequently included specific provisions on IDP voting in the new 2002 Law on Voter Lists. In Article 30(4), the law provides that “[f]or the voting of internally displaced persons, the Ministry of Justice shall prepare separate excerpts of the Voter Lists, based on the records of the competent bodies.”<sup>258</sup> This provided IDPs the opportunity to participate in the election despite the lack of absentee voting provisions. In addition, the law required IDPs to cast their ballot at their current location one day in advance of regular voting. However, as OSCE observers noted, it did not specify whether IDPs would receive ballots corresponding to the district where they were from or the district in which they were temporarily located during their displacement.<sup>259</sup> The State Election Commission (SEC) later clarified that IDP voters would receive ballots corresponding to their place of origin.<sup>260</sup> The OSCE continued to recommend establishing more concrete measures to enable absentee voting by voters who would be absent from their home areas on election day.<sup>261</sup>

When the parliamentary election was held on 15 September 2002, the OSCE concluded that although it was generally in line with international standards, there were a number of problems such as violent incidents during the election period, biased media coverage and inconsistencies in the election law.<sup>262</sup> As regards IDPs, the OSCE noted particular concerns about the conduct of elections in the Kumanovo IDP center “Kamp Kristal.” In addition to concerns about the efficiency of the Election Boards, violence instigated by some voters and party activists, who obstructed one another’s supporters from casting ballots, forced voting to be suspended there after only two hours.<sup>263</sup> Moreover, the number of ballots delivered to the IDP center did not correspond to the number of voters, and “the number of the names on the voter list was smaller than the number of people claiming to be living in this camp for internally displaced.”<sup>264</sup> There was thus a shortage of ballots at the polling station. It is unclear, however, whether the voter list was incomplete or whether persons coming forward to vote at the polling station were not actually IDPs.

The SEC ordered repeat voting to take place at two other polling stations where the vote was either interrupted or did not take place. No repeat voting, however, took place in “Kamp Kristal.” In addition, following the issuance of the complete election results, the SEC determined that re-runs would only be held in areas where the outcome might be changed by such a re-run.<sup>265</sup> The SEC again opted not to hold a re-run vote at “Kamp Kristal,” despite the possible influence it might have had on the outcome of the election. Reportedly, this decision was taken because a number of ballots had already been cast prior to the vote suspension and had counted toward the results of a number of districts. Furthermore, the SEC concluded that the voting had ended due to disorderly voter behavior and, as such, the case did not qualify for a revote.<sup>266</sup>

Presidential Elections, 14 and 28 April 2004: These two rounds of presidential elections were held following the death of the president in a plane crash on 26 February 2004. In its preliminary assessments, the OSCE found that, on the whole, both rounds of voting were consistent with international standards, but also noted a number of irregularities. In the first round on 14 April 2004, this pertained largely to group and proxy voting, as well as a number of incidents of ballot stuffing.<sup>267</sup> On 28 April 2004, when the second round run-off was held, problems that occurred, such as “proxy voting, ballot box stuffing and intimidation, were even more evident.”<sup>268</sup>

In terms of IDP voting in these elections, the OSCE reported that “special voting took place the day before the general election in both rounds.”<sup>269</sup> During the first round observers noted that 860 IDPs had cast their ballots in two designated IDP centers in Skopje and Kumanovo. However, “[a]round 50 percent of the IDPs were not on the list, and had no chance to check if they were meant to vote at the center or at their previous residence.”<sup>270</sup> As the Government only decided on the logistics of IDP voting at a late stage in the election preparations, displaced voters had no chance to confirm their registration on the voter lists beforehand, due to time constraints. Doubts about the accuracy of the voter lists, however, were a general problem in these elections and affected the entire electorate.<sup>271</sup>

Moreover, in the second round, problems were reported as regards the availability of election material in the Albanian language. According to the OSCE, “electoral regulations did not ensure that election materials were consistently available in areas where there are a substantial number of ethnic voters.”<sup>272</sup> At present, however, no further information on the participation of IDPs in this election is available.

Referendum on Law on Territorial Organization, 7 November 2004: In this referendum, which will be monitored by the OSCE, voters will decide on whether to repeal the August 2004 Law on Territorial Organization. This law reduced the number of municipalities from 123 to 84.<sup>273</sup> At present there is no information on any special arrangements for the participation of IDPs in this referendum.

Forthcoming Municipal Elections: These elections, due to occur in 17 October 2004, had to be postponed due to the referendum on the Law on Territorial Organization; according to law, they will have to be held by 31 March 2005.<sup>274</sup> Prior to their postponement, the OSCE had sent a needs assessment mission to evaluate the country’s state of preparation

for the elections. Although there was some discussion of the newly amended law on local elections, no indication was given as to whether the law addressed arrangements for displaced persons to vote. The mission report did indicate, however, that “new provisions require mandatory use of minority languages in the election process in municipalities where at least 20 percent of the population speak an official language other than Macedonian.”<sup>275</sup> The OSCE noted that these provisions in the law would be reflected in a range of election material including ballots and public announcements.

### ***III. MONITORING***

The OSCE and the International Republican Institute (IRI) of Washington, DC have produced detailed election monitoring reports on all elections held in Macedonia. IDP related issues regularly figure in this reports. Domestic monitoring organizations have also participated in monitoring the elections. According to the OSCE, the local NGO “MOST” was the largest of these organizations, fielding some 3,000 observers in elections in 2002 and 2004, out of a total of 4,000 domestic observers in 2004. Other domestic monitoring organizations include Citizens for Citizens and the Macedonian Helsinki Committee. Perhaps because the IDP population in Macedonia is now quite small, and the problem relatively recent, little attention is devoted by domestic observers to specifically monitoring the electoral participation of IDPs.

### ***IV. RECOMMENDATIONS***

Further improvements in the electoral process should enlarge the opportunities available for IDP electoral participation. In particular, the following recommendations are put forth:

- *Adopt* clear provisions for absentee voting and incorporate these in all relevant aspects of the electoral law.
- *Ensure* that all voting provisions targeting displaced voters are implemented in a clear, consistent and timely manner.
- *Facilitate* access, in IDP voters’ native language, to electoral material and information on voting arrangements, in accordance with existing laws.
- *Strengthen* voter registration procedures in order to facilitate IDP participation.

## **MOLDOVA**

*Efforts to assess IDP voting rights in Moldova are complicated by difficulties to ascertain the exact number and location of the internally displaced population. It is also unclear whether displaced persons in Moldova are able to vote in their place of temporary residence and to what extent they are affected by problems over the accuracy of the voter lists. However, in the case of IDPs who have returned to Transnistria, it is well documented that acts of intimidation have prevented residents of this region from casting their vote in Moldovan elections.*

### ***I. IDP SITUATION OVERVIEW***

The armed conflict over the attempted secession of the Transnistrian region of Moldova in 1990-92 caused the displacement of approximately 130,000 people of whom the overwhelming majority are ethnic Moldovan.<sup>276</sup> Since the ceasefire agreement of 1992, which included provisions for the return of the displaced, many IDPs have returned to their original homes. Moldovan Government sources, however, maintain that upwards of 25,000 remain.<sup>277</sup> A 2004 Council of Europe report notes that about ten percent of the original number of displaced, or approximately 13,000, are still unable to return due to a hostile political climate and lack of economic prospects in the Transnistrian region.<sup>278</sup> Indeed, the Office of the UN High Commissioner for Refugees (UNHCR) reports that some returnees have been forced into displacement a second time due to an unwelcoming environment in the Transnistrian region.<sup>279</sup> The Council of Europe also points out that while the Transnistrian region continues to yield new IDPs, they can no longer formally register as IDPs. More than ten years after the conflict and original displacement, there is scant information regarding the intention of remaining displaced to either return to the Transnistrian region or to resettle in Moldova proper. As of the end of 2002, UNHCR indicated that 1,000 IDPs remained of concern to the organization.

### ***II. IDPs AND ELECTIONS***

Since its independence from the Soviet Union and following the conflict in Transnistria, Moldova has had two presidential elections in 1991 and 1996 respectively, three parliamentary elections in 1994, 1998, and in 2001, and one local election in 2003.<sup>280</sup> No information was available regarding the 1991 and 1994 elections.

Presidential Elections, 17 November and 1 December 1996: Leading up to the presidential election of 1996, OSCE observers noted that Moldova had, in compliance with OSCE commitments, a good legal framework in place to hold free and fair elections.<sup>281</sup> The OSCE further noted that constructive changes had been made to the Law on the Election of the President of the Republic of Moldova by the Moldovan Central Election Commission (CEC) prior to the election. Of consequence to returning IDPs was the extension of the right to vote to the residents of Transnistria. However, as the OSCE pointed out, this and other changes to the election law were made too close to the actual election day to be implemented properly.<sup>282</sup> The provision enabling persons in

Transdnistria to vote on election day, for instance, was made 12 days before the first round of the election and amended again only three days prior to the election.<sup>283</sup> As for IDPs in Moldova proper, it is unclear what provisions were made, if any, to facilitate their voting. In addition, no information was available regarding their ability to vote in their places of temporary residence.

Arrangements were made to allow residents of Transdnistria, which included returning IDPs, to vote in the election through 13 polling stations on Moldovan-controlled territory. The CEC also provided transportation for voters to reach the polling stations in Moldova proper. But, less than two percent of the voters took advantage of these arrangements. Some buses were prevented from crossing into Moldova by “Transdnistrian authorities” and Transdnistrian “border guards” conducted rigorous checks of every vehicle crossing into Moldova during the first round of voting. In addition, one polling station was shut down by Transdnistrian militia before voting had been finalized. The OSCE attributed sole responsibility for the low turnout in both rounds of the presidential election to “Transdnistrian authorities.”<sup>284</sup>

Parliamentary Elections, 22 March 1998: No specific information is available regarding the ability of IDPs to vote in these elections. However, restrictions on freedom of movement which impeded voters from Transdnistria from crossing into Moldova to vote would have impeded IDP returnees from voting. Despite assurances by the Transdnistrian authorities that they would allow buses carrying voters to travel to the 13 polling stations in Moldova, the majority of these buses were prevented from crossing over and passengers were subjected to acts of intimidation.<sup>285</sup> In the end, the OSCE reported a voter turnout of less than half the number of those who had voted in the 1996 presidential election. Besides the restrictions to free movement imposed by the “Transdnistrian authorities,” the low voter turnout was also attributed to insufficient public information about the election.<sup>286</sup> According to the OSCE, the Transdnistrian media barely covered the elections, and only gave candidates exposure when they addressed Transdnistrian issues.<sup>287</sup>

Parliamentary Elections, 25 February 2001: As with the 1998 elections, obstacles to Transdnistrian voters crossing back into Moldova to vote in these elections were reported. Once more only a small number of persons from Transdnistria were able to exercise their vote in the special polling stations set up for them in Moldova proper.<sup>288</sup> Other issues affecting the election included a decision by the CEC to exclude from the voter lists persons who had been absent from their place of residence for more than six months. Although this change sought to update the voter lists, it stood to negatively affect those IDPs who continued to be unable to return to their domiciles.

Local Elections, 25 May and 8 June 2003: The local elections of 2003 were affected by persistent problems regarding the accuracy of the voter lists.<sup>289</sup> At the same time, the OSCE reported that in previous elections up to six percent of voters were mistakenly omitted from the lists,<sup>290</sup> and noted that in these elections voters not registered on voter lists could at least be placed on supplementary lists provided they could furnish identification proving that they resided within the area of a polling station.<sup>291</sup> As for IDPs, it is difficult to ascertain how the house-to-house canvassing process by local

authorities affected IDPs, and whether it took into account the situation of persons, including IDPs, who were not in their places of habitual residence or whether provisions were made for displaced voters who did not possess proper identification documents.

### ***III. MONITORING***

While the OSCE provides detailed information regarding the general conduct of elections and the suitability of Moldovan electoral legislation, no specific information on the political participation of IDPs is provided. Other organizations such as the International Crisis Group, the International Organization for Migration, and UNHCR, which follow the plight of the displaced in Moldova, likewise do not report on IDP voting rights.

### ***IV. RECOMMENDATIONS***

The electoral participation of the IDPs in Moldova must be understood in the context of the conflict between Moldovan authorities and insurgents in the Transdniestrian region of Moldova. The voting violations in Transdniestria are aimed at preventing *all* the residents of Transdniestria from participating in Moldovan Government sponsored elections. However, with specific reference to IDPs, the following measures could be taken:

- *Assess* the number and location of IDPs in Moldova and their intentions as to return, resettle or locally integrate. Knowing the whereabouts and preferred solutions of IDPs will help in designing effective strategies to facilitate their electoral participation.
- *Clarify* the implications a CEC decision to remove persons from voter lists who have been absent from their domicile for more than six months and amend it accordingly to ensure that it does not impede IDPs from voting in their place of origin.
- *Ensure* the accuracy of the voter register well before the date of election in accordance with OSCE recommendations. In so doing, attention must be paid to ensuring that IDPs are included on voter lists and are therefore able to exercise their right to vote.
- *Explore* the possibility of absentee voting arrangements for voters in Transdniestria, including safe and unhindered access to such arrangements. The full cooperation of the “Transdniestrian authorities” in this regard is essential.
- *Seek to assure* the safety of voters crossing from Transdniestria into Moldova. The “Transdniestrian authorities” have a particular responsibility in this regard.

## **RUSSIAN FEDERATION**

*IDPs displaced by the conflict in Chechnya face a number of obstacles exercising their right to vote. To begin with, there often have been conflicting messages about the arrangements for IDP voting, which sometimes have changed just before the election. Even then, the arrangements made have not necessarily been implemented in practice. Moreover, to exercise the option of absentee voting, IDPs are required to travel to their place of permanent residence in Chechnya, which in most cases remains unsafe, to obtain an absentee voting certificate. This requirement is all the more of a concern now that, in a recent development, IDPs can no longer choose between voting in their permanent or current residences, but can only vote as absentee voters according to their permanent places of residence. Moreover, efforts by domestic and international election observer organizations to monitor elections in Chechnya and the electoral participation of Chechen IDPs in Ingushetia face significant restrictions. Finally, little information is available on the voting rights of IDPs still within Chechnya as well as of Ingush IDPs in Ingushetia from the North Ossetia conflict in 1992.*

### ***I. IDP SITUATION OVERVIEW***

**A**n estimated 400,000 to 600,000 Chechens were displaced as a result of conflict in Chechnya from 1994 to 1996. Furthermore, when hostilities resumed in 1999 a wave of 600,000 were displaced, including persons displaced a second time. A number of these IDPs no longer appear in statistics because they are considered to have locally integrated or have returned to Chechnya. As of 14 January 2004, 66,792 Chechen IDPs were registered with the Danish Refugee Council in Ingushetia. In addition, an estimated 8,000 Chechen IDPs were located in Dagestan while 40,000 were living in other regions of the Russian Federation, and a further 140,000 were displaced within Chechnya itself.<sup>292</sup> Approximately 162,000 IDPs, most of them of Russian ethnicity, have been granted “forced migrant” status within the Russian Federation.<sup>293</sup> Although significant numbers of displaced Chechens are reported to be returning to Chechnya, their return is considered by many not to be voluntary,<sup>294</sup> and there are concerns regarding their safety upon return.<sup>295</sup>

In addition, there still remain in Ingushetia some 14,000 ethnically Ingush IDPs who fled ethnic conflict in neighboring North Ossetia in 1992. Little information is available on the current situation of these IDPs generally, much less their voting rights.

### ***II. IDPs AND ELECTIONS***

The Russian Constitution as well as the 1997 Law on Basic Guarantees of Electoral Rights and the Rights of Citizens of the Russian Federation to Participate in Referendum guarantee that all Russian citizens are entitled to vote in elections. In addition, the Federal Law on Forced Migrants of 1993 (amended in 1995) confirms the voting rights of those IDPs who are recognized as “forced migrants.”<sup>296</sup>

State Duma Election, 19 December 1999: In one assessment of IDP participation in elections held in 1999 and 2000, a recurring problem was that inadequate arrangements were put in place for ensuring IDPs' ability to exercise their right to vote. For the 19 December 1999 State Duma (Russian parliament) Election, the promised IDP polling stations did not appear and transportation for IDP voters was insufficient.<sup>297</sup>

By-election for Chechnya's representative to the lower house of the State Duma, 20 August 2000: In this election as well, polling stations for IDPs outside of Chechnya were not available in several Russian localities. Loss of identity documents, a problem common among Chechen IDPs, may have also functioned as a bar to electoral participation. Moreover, candidates' outreach to IDP voters was minimal. In the end, less than half of registered IDP voters in the election actually voted.<sup>298</sup>

Chechnya Constitutional Referendum, 23 March 2003: According to the Chechen Electoral Commission, 80 percent of the 580,000 eligible voters, which included IDPs in Ingushetia and Dagestan, participated in this referendum on the draft Chechen Constitution and the draft laws on the Presidential and Parliamentary Elections. Nearly 96 percent of all voters backed the Constitution, 95.4 percent supported the Law on the Election of the President, and 96.05 percent supported the Law on the Election of the Parliament.<sup>299</sup> A number of factors, however, cast doubt on these results. For one, independent observers reported that in Grozny only small numbers of people actually appeared at polling stations on election day;<sup>300</sup> indeed, a poll taken before the referendum indicated that only 12 percent of the Chechen population intended to participate in the vote.<sup>301</sup> Secondly, other observers suggested that the official number of voters had been significantly inflated in order to include falsified ballots and it also included 36,000 Russian servicemen and their families, who officially were not eligible voters.<sup>302</sup>

Moreover, and as pointed out by the Council of Europe's Human Rights Commissioner, the arrangements for IDPs in Ingushetia to cast absentee ballots in this election were problematic.<sup>303</sup> A month before polling day, the head of administration of the Chechen Republic, Akhmad Kadyrov, had indicated that Russian legislation provided only for people to vote where they were registered as permanent residents, which for IDPs would mean that they could only vote in their place of origin, inside Chechnya. Polling stations accordingly were to be set up just inside Chechnya, with bus service across the border to be provided for eligible voters among Chechen IDPs in Ingushetia. To exercise their right to vote, displaced Chechens would therefore have to return to Chechnya, passing through Russian checkpoints to reach these polling stations, which was something many IDPs were fearful to do. Concerns about this arrangement attracted international attention in advance of the election.<sup>304</sup> In the end, and in a reversal of Kadyrov's earlier statement, the authorities did provide facilities for voting in Ingushetia: two polling precincts were set up for Chechen IDPs, one for those living in private accommodations and one for those in the tent camps.<sup>305</sup> However, there were discrepancies about the number of eligible IDP voters: while the Ingush Interior Ministry reported that 20,000 Chechen IDPs were registered to vote, a Chechen NGO indicated that 50,000 were eligible. In the end, only 5,500 Chechen IDPs reportedly voted in Ingushetia.<sup>306</sup>

No information could be obtained on voting in this election by those IDPs still inside Chechnya.

Chechen Presidential Elections, 5 October 2003: Generally, these elections were considered to be problematic. The OSCE chairman Jaap De Hoop Scheffer echoed the view of many outside and local observers when he noted that voters had not been presented with a meaningful choice.<sup>307</sup> In addition, it remained the case that contrary to electoral legislation, 30,000 Russian troops stationed in the republic were allowed to vote in Chechen elections.<sup>308</sup>

As regards IDP participation in this election, conflicting information made it difficult for displaced voters to know what the actual voting arrangements for them would be. Prior to the election, Alexander Veshnyakov, chairman of the Russian Central Election Committee, and Abdul-Khakim Sultygov, President Putin's representative for human rights in Chechnya, announced that forced migrants from Chechnya who were living in neighboring regions would be able to participate in the elections in the same manner as in the March referendum. This would mean, though it was not expressly spelled out, that additional polling stations would be set up where IDPs lived, including in the tent camps. At the same time, Buvaisari Arsakhanov, the deputy chairman of Chechnya's Election Committee, stated that it was unclear where IDPs might be able to vote.<sup>309</sup> Further confusing matters, previous as well as subsequent statements indicated that facilities for voting would be provided only on Chechen territory. The arrangements for IDP voting that were, in the end, put in place were unclear.

Moreover, it was unclear how many Chechen IDPs would remain in Ingushetia by the time of the election. Chechen administrators had indicated in the summer that the IDP camps in Ingushetia would be dismantled by 1 October 2003 and their residents moved into "compact accommodation points" in Ingushetia and "temporary settlement points" in Chechnya.<sup>310</sup> This announcement raised widespread concern among many organizations working with the displaced, who called into question whether conditions of safe return to Chechnya yet existed and, in addition, stressed that the IDPs must have the option of resettling within Ingushetia.<sup>311</sup> Indeed, during a mission to the Russian Federation in September 2003, the Representative of the UN Secretary-General on IDPs "noted that" the return process was not likely to be sustainable in the long run if the choice to return was not based on a voluntary decision, including consideration of the option to remain." At the beginning of September 2003, at least 20,000 Chechen IDPs were refusing to return to Chechnya.<sup>312</sup>

Among IDP returnees to Grozny, a survey found that only 13 percent planned to participate in the elections.<sup>313</sup> No further information could be found on the participation of IDPs inside Chechnya in this election.

Russian Federation State Duma Election, 7 December 2003: According to the OSCE, "while generally well-administered, the election failed to meet a number of OSCE commitments for democratic elections."<sup>314</sup> The main weaknesses identified by the OSCE concerned discriminatory access to the media, the unclear separation between the state and political parties, and unequal treatment of different parties in the election.<sup>315</sup>

As regards IDP voting, voters who were away from their electoral precincts on polling day had to apply for Absentee Voting Certificates which would allow them to cast their ballots elsewhere.<sup>316</sup> However, they would only be able to vote in the federal proportional contest, not for particular constituencies.<sup>317</sup> The OSCE recommended that this restriction, which inevitably would affect IDPs, should be abolished.<sup>318</sup> It remained in place, however, in the subsequent 2004 presidential election. Furthermore, under a recent change in the election law, voters were no longer able to register in a place of temporary residence.<sup>319</sup> Chechen IDPs were therefore unable to register as voters in the locations to which they had been displaced but would have to register in their place of permanent residence, which would necessarily entail returning to Chechnya – something that many IDPs, due to safety concerns, remain unwilling to do. The OSCE also reported some general concerns about the accuracy of voter lists, which may also have had ramifications for IDPs.<sup>320</sup>

Russian Federation Presidential Election, 14 March 2004: While the OSCE was satisfied with the technical aspects of the conduct of this election, it concluded that the electoral process did not sufficiently correspond to democratic principles.<sup>321</sup> Independent observers also cast doubt on the official turnout figures in Chechnya, which reportedly only amounted to between 10 and 15 percent of registered voters.<sup>322</sup>

While acknowledging that significant efforts generally had been made to facilitate absentee voters' participation in this election, the OSCE noted that the electoral participation of IDPs frequently had been fraught with difficulties. This was due principally to the fact that IDPs who did not reside in camps had to obtain Absentee Voting Certificates from the electoral commission in their place of permanent residence in Chechnya. The OSCE pointed out that there were "serious practical obstacles to this, particularly in the case of IDPs from conflict-prone areas, and thus it constitutes a considerable impediment to their participation in elections."<sup>323</sup> The OSCE recommended amending the procedures for IDP voting, including removing the requirement that IDPs return to Chechnya to obtain an Absentee Voting Certificate.<sup>324</sup>

Furthermore, the Parliamentary Assembly of the Council of Europe recently noted that the *propiska* internal residence regime continues to represent a source of hardship for the displaced, despite the fact that it has formally been abolished.<sup>325</sup> This regime is a leftover administrative practice from the Soviet Union, whereby citizens had to request authorization to change their residence within the state and where the exercise of many rights was tied to the place of residence. Indeed, this practice ties the exercise of IDPs' right to vote to a specific location.

### ***III. MONITORING***

Significant obstacles remain to independent election monitoring in the Russian Federation by international as well as domestic observation groups; the OSCE Assistance Group to Chechnya, which was tasked with supporting the development of democratic governance, was terminated at the end of 2002, at the request of the Russian Government; and domestic observers, especially in Chechnya, face restrictions and threats to their physical security. Concerns about the ability of IDPs from Chechnya to exercise their

voting rights nonetheless has gained increasing attention, both from local NGOs as well as international and regional bodies.

#### ***IV. RECOMMENDATIONS***

As a result of the unresolved state of the conflict in Chechnya, elections occur in a general context of insecurity. An overall political settlement is critical to establishing conditions of security enabling voters, including IDPs, to freely and fully exercise their right to vote. In addition, the following recommendations are made to safeguard IDP voting rights:

- *Allow* displaced voters to cast absentee ballots without having to return to Chechnya to obtain an Absentee Voting Certificate.
- *End* the continued application of the *propiska* internal residence regime, which hinders IDPs' ability to vote in places other than their permanent area of residence.
- *Clarify* the rules and procedures for absentee voting and ensure that these are fully implemented.
- *Ensure* that IDPs have adequate and timely information on the procedures, including absentee voting, available for them to exercise their right to vote.
- *Allow* domestic and international observers safe and unhindered access to monitor the electoral participation of IDPs, both within and outside of Chechnya.
- *Assess* the current situation of the Ingush IDPs from North Ossetia, in particular their voting rights in local, regional and national elections.

## **SERBIA AND MONTENEGRO, INCLUDING KOSOVO**

*The ability of IDPs in Serbia and Montenegro as well as in Kosovo to exercise their voting rights varies depending on where they are displaced. In the Republic of Serbia, displaced persons generally have access to the voting process, as they are able to cast their ballots in their places of current residence. Persons displaced to the Republic of Montenegro, however, cannot vote in elections in Serbia, as there are no provisions for absentee voting; nor can they vote in Montenegro, unless they have been registered as a permanent resident for a minimum of 24 months, which IDPs are unable to do. Effectively, then, IDPs in Montenegro are largely disenfranchised. In Kosovo, by contrast, significant efforts have been made to facilitate the inclusion of minorities and persons displaced to Serbia and Montenegro in the electoral process. Moreover, in all of Serbia and Montenegro, the electoral participation of displaced Roma is constrained by difficulties in obtaining the identification documents necessary to vote.*

### ***I. IDP SITUATION OVERVIEW***

**A**fter the breakup of the Socialist Federal Republic of Yugoslavia in 1991-2, the constituent republics of Serbia and Montenegro formed the Federal Republic of Yugoslavia. This joint state was renamed Serbia and Montenegro in 2003, when there also occurred a devolution of most federal functions to the republic level.

Internal displacement in Serbia and Montenegro is primarily a result of inter-ethnic violence in the aftermath of war over the status of the province of Kosovo within the Republic of Serbia. Following years of repression against ethnic-Albanian civilians in Kosovo, the outbreak of hostilities in 1998, and NATO's subsequent air campaign in the spring of 1999, Kosovo became an international protectorate administered by the United Nations Interim Administration Mission in Kosovo (UNMIK), the future status of which has been left undetermined. Following the mass returns of ethnic Albanian refugees from Kosovo in the summer of 1999, large numbers of ethnic Serbs and significant numbers of Roma fled the province amidst a climate of reprisals by ethnic Albanians.<sup>326</sup> The return of ethnic Serbs has since been minimal, due to concerns regarding the protection of non-Albanian minorities in Kosovo. In March 2004, widespread rioting broke out in Kosovo, directed primarily against the remaining ethnic Serb population, which resulted in "nineteen dead, nearly 900 injured, over 700 Serb, Ashkali and Roma homes, up to ten public buildings and 30 Serbian churches and two monasteries damaged or destroyed, and roughly 4,500 people displaced."<sup>327</sup>

Currently, there are more than 250,000 IDPs in Serbia and Montenegro. Of these, 207,000 are in the Republic of Serbia (excluding Kosovo), 18,000 are in the Republic of Montenegro, and in Kosovo there remain 5,000 displaced ethnic Albanians from other parts of Serbia and Montenegro, and 22,200 persons displaced within Kosovo.<sup>328</sup>

## ***II. IDPs AND ELECTIONS***

Numerous elections, at various administrative levels, have been held in Serbia and Montenegro since 1999. These have included federal elections as well as separate elections in the Republic of Serbia and the Republic of Montenegro. Moreover, due to a provision in the electoral laws declaring invalid any elections with a voter turnout of less than 50 percent, a particularly large number of presidential elections were held in the Republic of Serbia as well as in the Republic of Montenegro, until this provision was repealed in both republics in advance of presidential elections in 2004 and 2003 respectively.

Voters registered in Kosovo were eligible to participate in elections in the Republic of Serbia. In addition, separate elections were organized in Kosovo by the OSCE on behalf of UNMIK.

Persons displaced from Kosovo, meanwhile, have only in 2003 been allowed to de-register from their places of permanent residence in Kosovo to establish permanent residence in other municipalities within Serbia and Montenegro.<sup>329</sup> As such, their voting rights in both the Republic of Serbia and the Republic of Montenegro have been primarily contingent upon being allowed to register as absentee voters, or as voters in their place of temporary residence.

In general terms, IDPs' electoral participation is constrained by the obstacles they frequently experience in obtaining identity documents, which are prerequisites for electoral registration. According to the Norwegian Refugee Council (NRC), "complicated, time-consuming and costly procedures prevent many IDPs from obtaining documents necessary to gain access to social services and benefits, and to exercise their political rights."<sup>330</sup> Applications for identity documents cannot be made in a place of temporary residence, which presents particular complications for IDPs for whom it is unsafe to return to their area of origin.<sup>331</sup> These problems are particularly acute for displaced Roma, many of whom have never been officially registered. Figures quoted by the NRC in fact suggest that more than 50 percent of Roma do not possess identity documents.

### **Federal Republic of Yugoslavia**

Federal Republic of Yugoslavia Elections, 24 September 2000: These elections comprised both federal (parliamentary as well as presidential) and municipal ballots. The OSCE, which was not permitted to send an in-country observation mission, concluded that the election was generally flawed and not in line with international standards.<sup>332</sup> The OSCE also voiced significant concerns regarding the quality of the voters' register.<sup>333</sup> While international organizations estimated the number of eligible non-Albanian voters to be approximately 200,000, the Government of Serbia reported a figure of 350,000.<sup>334</sup> This discrepancy was significant because, according to Human Rights Watch, "previous elections have established Kosovo as the main reservoir of fraudulent votes for the government."<sup>335</sup> Especially in the absence of independent monitoring, little information was available on the electoral participation of IDPs in these elections.

## **Republic of Serbia**

Republic of Serbia Parliamentary Election, 23 December 2000: According to the OSCE, this election “was conducted well and largely in line with commitments outlined in the 1990 OSCE Copenhagen Document for Democratic Elections.”<sup>336</sup> Voters had to cast their ballots in person at polling stations inside Serbia – this meant that IDPs within Serbia were entitled to register as electors in their place of temporary residence.<sup>337</sup> However, Kosovar IDPs displaced to and temporarily resident in Montenegro were disenfranchised,<sup>338</sup> as the security situation did not allow them to return to Kosovo on polling day and the Republic Election Commission had rejected requests to establish polling stations in Montenegro for them.<sup>339</sup> The OSCE accordingly recommended that the electoral legislation be amended to protect the voting rights of citizens outside of the Republic of Serbia.<sup>340</sup>

Republic of Serbia Presidential Elections, 29 September and 13 October 2002 and Repeat Presidential Election, 8 December 2002: Although the OSCE confirmed the overall procedural integrity and democratic credentials of these elections, a low voter turnout meant that they did not lead to the inauguration of a new president.<sup>341</sup> In terms of voting arrangements, IDPs displaced to Montenegro, who continued to be registered as permanently resident in Kosovo, were again unable to cast their ballot as they were required to cast their ballot in their place of permanent residence.<sup>342</sup> IDPs displaced from Kosovo to other parts of Serbia, however, could vote in their places of temporary residence inside Serbia.<sup>343</sup> In its recommendations, the OSCE called for the introduction of legal provisions enabling absentee voting.<sup>344</sup>

The OSCE also drew attention to weaknesses in electoral registration and noted that in approximately 20 percent of polling stations visited, voter records were incomplete.<sup>345</sup> It reported that IDPs were among the groups most seriously concerned by such inaccuracies, and recommended the establishment of a central voter registration body.<sup>346</sup>

Republic of Serbia Presidential Election, 16 November 2003: According to the OSCE, as in previous elections, voters cast their ballots in polling stations located in their places of registered permanent residence. The OSCE again recommended instituting provisions to enable absentee voting and introducing a central and unified voter register for the entire country.<sup>347</sup> However, it remained the case that an exception was made for displaced voters inside Serbia who were allowed to vote in their temporary place of residence.<sup>348</sup> Due to low turnout, this election failed to result in the inauguration of a new president.

Republic of Serbia Parliamentary Election, 28 December 2003: With respect to this election, the OSCE concluded that “[i]nternational and domestic non-partisan observers were generally satisfied with the polling procedures, although some minor irregularities were recorded.”<sup>349</sup> However, it remained the case that citizens were only eligible to vote in person in the place where they had registered their permanent residence. The OSCE recalled that it had urged amendment of this provision and again recommended the introduction of provisions for absentee voting.<sup>350</sup> It also reiterated its long-standing recommendation that a single unified voter registration system be introduced.<sup>351</sup>

With respect to Roma voters, the OSCE noted that their turnout rate was low relative to their percentage of the electorate, including in areas where Roma represented the dominant ethnic group. According to the OSCE, the reasons for this result might include a lack of voter information provided to Roma voters, or be indicative of their unresolved residency status or insufficient access to identification documents.<sup>352</sup>

Republic of Serbia Presidential Election, 13 June 2004: The OSCE concluded that this most recent election in Serbia was of acceptable standard overall.<sup>353</sup> Prior to polling day, electoral laws had been changed to remove the 50 percent minimum turnout requirement that had made valid presidential elections so rare in the past. Furthermore, absentee voting was now available for large sections of previously disenfranchised voters. The OSCE, however, explicitly pointed out that this change did not apply to eligible voters in the Republic of Montenegro, including IDPs from Kosovo. They still had to vote in their places of permanent residence and therefore remained disenfranchised.<sup>354</sup> The OSCE again recommended legal changes to enfranchise this group.<sup>355</sup>

In addition, the OSCE again drew attention to the difficulties experienced by Roma voters, and particularly Roma IDPs, in participating in this election. While the exact number of this electoral group was unknown, it was noted that their participation was constrained by lack of access to the necessary identification documents.<sup>356</sup> In addition, as in previous elections, the OSCE again called for the establishment of a unified voter register.<sup>357</sup>

### **Republic of Montenegro**

Podgorica and Herceg Novi (Republic of Montenegro) Early Municipal Elections, 11 June 2000: According to the OSCE, these elections were “well conducted and generally in line with OSCE commitments.”<sup>358</sup> In order to be able to vote in a particular municipality, voters had to have resided there for at least twelve months prior to polling day and had to have been permanent residents of the Republic of Montenegro for at least 24 months prior to election day.<sup>359</sup> The latter requirement had been increased from 12 to 24 months with the adoption of a new citizenship law in 1999 and clearly excluded persons who had recently been displaced to Montenegro. According to the OSCE, “*inter alia*, the motivation for this change appears to be to prevent an influx of FRY [Federal Republic of Yugoslavia] citizens previously resident in other parts of the Federation, including internally displaced persons, from qualifying as voters and thereby potentially upsetting the political balance in what is a small electorate.”<sup>360</sup> While the OSCE reported that the changes in effect only disenfranchised a small number of voters who could have otherwise voted, it nevertheless recommended that the Government adopt provisions guaranteeing that no person would lose their right to vote as a result of these changes.<sup>361</sup>

Republic of Montenegro Parliamentary Election, 22 April 2001: While the OSCE determined that this met international election standards generally, concerns were expressed about voter eligibility as, in order to be able to vote, voters had to be registered as permanent residents of Montenegro for 24 months prior to the election.<sup>362</sup> Although there was no explicit mention of displaced voters, it seems probable that this provision

would have affected their right to vote, especially as IDPs were unable to de-register from Kosovo to establish permanent residence in the Republic of Montenegro. In addition, the OSCE reported numerous concerns with the voter register, in particular with regard to the procedure to reinstate persons who had wrongly been omitted.<sup>363</sup>

Republic of Montenegro Municipal Elections, 15 May 2002: For these elections, the OSCE noted that “[t]he accuracy of voter registers has continued to improve, but errors still exist in spite of the significant efforts undertaken during the past year to remove inaccuracies.”<sup>364</sup> Moreover, as in previous elections, displaced voters from Kosovo were unable to register permanent residency in the Republic of Montenegro and were therefore unable to vote.

Republic of Montenegro Early Parliamentary Election, 20 October 2002: For this election, the OSCE noted that “[m]ost of the few deficiencies identified in earlier OSCE/ODIHR [Election Observation Mission] reports have now been remedied.”<sup>365</sup> However, this was not the case in the conclusions most directly affecting IDPs. In order to be eligible to vote, it remained the case that citizens had to have been permanent residents of Montenegro for 24 months prior to Election Day.<sup>366</sup> However, it remained the case that displaced voters could not meet this requirement since they were unable to de-register their permanent residence in Kosovo.

Republic of Montenegro Presidential Elections, 22 December 2002 and 9 February 2003: The requirement that voters had to be registered as permanent residents of Montenegro for 24 months prior to the election, a provision IDPs from Kosovo could not satisfy, remained in force for these elections. Peculiarly, however, the residency requirement for running for president was only 12 months, meaning that persons not entitled to vote might theoretically have become presidential candidates.<sup>367</sup> In the end, both rounds of this election did not achieve the required 50 percent minimum turnout figure and therefore did not end with the election of a new president.

Republic of Montenegro Presidential Election, 11 May 2003: Due to the removal of the 50 percent minimum turnout requirement, Montenegro succeeded in electing a new president in 2003.<sup>368</sup> According to the OSCE, this election marked further significant progress in the overall quality of elections in Montenegro.<sup>369</sup> In particular, the OSCE reported that “the authorities have undertaken a systematic effort to produce accurate and transparent voter registers, which now generally enjoy the confidence of political parties.”<sup>370</sup> However, as in previous elections, citizens were only entitled to electoral participation if they had been permanent residents of Montenegro for 24 months prior to the election – a provision which continued to be problematic for IDPs.<sup>371</sup>

## **Kosovo**

Kosovo Municipal Elections, 28 October 2000: Following the creation of UNMIK in 1999, the OSCE assumed responsibility for organizing elections under the “Democratization and Institution Building” pillar of the administrative structure established by the UN. Within this framework, Kosovo held municipal elections in 2000. Voter registration represented a key challenge in the preparation for this election, as

identity documentation had in many cases been destroyed during the conflict.<sup>372</sup> UNMIK subcontracted the registration of identities of voters residing outside of Kosovo to the International Organization for Migration (IOM), while the registration of IDPs within Kosovo was conducted under the auspices of the Kosovo Central Election Commission, which was set up by the OSCE.

In a general assessment of the election, the Council of Europe concluded that, “[a]ll in all, this election, which was the first in Kosovo to come up to truly democratic standards, can be said to have been a major success.”<sup>373</sup> Despite efforts by the international community to encourage minority voting, however, the Serb minority remaining in Kosovo, as well as Serbs displaced to the Republic of Serbia, almost without exception did not participate in this election.<sup>374</sup> Reportedly, this boycott was primarily intended to protest the lack of security for Serbs in Kosovo, and the fact that large numbers of displaced Serbs outside of Kosovo had been unable to return. The International Helsinki Federation for Human Rights suggested that it was also the result of Serb nationalist leaders protesting the *de facto* administrative separation of UNMIK-governed Kosovo from the Republic of Serbia.<sup>375</sup>

On election day, IDPs displaced within Kosovo were entitled to vote in either their municipalities of current or permanent residence. IDPs displaced to other parts of Serbia and Montenegro could vote by mail based on their places of permanent residence inside Kosovo on 1 January 1998.<sup>376</sup>

Kosovo Assembly Election, 17 November 2001: According to the International Crisis Group (ICG), this election marked further progress as compared to the 2000 Municipal Elections.<sup>377</sup> The Council of Europe also drew an overall positive assessment of the election, while noting some concerns regarding the participation of non-Albanian minorities as well as a lower overall turnout rate compared to 2000.<sup>378</sup>

UNMIK made significant efforts to ensure minority participation and continued its drive to register voters, including Serbs and IDPs. The responsibility for voter registration was again sub-contracted to the IOM, which worked in partnership with the Commissariat for Refugees in Serbia and Montenegro.<sup>379</sup> According to a joint OSCE/UNHCR report, 100,000 IDPs in Serbia and Montenegro had been registered when the final registration deadline expired on 22 September 2001.<sup>380</sup> The final results issued by the OSCE indicated that 57.36 percent of registered voters in Serbia and Montenegro took part in the election.<sup>381</sup> Although a large number of Serbs continued to stay away from the polls, the Serb minority this time did not boycott the proceedings.

Kosovo Municipal Elections, 26 October 2002: Displaced voters could vote in their municipalities of permanent residence on 1 January 1998. Their registration and voting was administered by the OSCE.<sup>382</sup> According to the UN Office for Coordination of Humanitarian Affairs (OCHA), in addition to 1.2 million voters inside Kosovo, 120,000 IDPs from Kosovo in Serbia and Montenegro were eligible to vote in these elections. However, while OCHA cited an overall turnout of 58 percent within Kosovo, only 14 percent of persons displaced to Serbia and Montenegro participated in the elections. Because of this low figure, the overall turnout rate was only 54 percent.<sup>383</sup>

In preparation for the Assembly of Kosovo election of 23 October 2004, the OSCE began in June 2004 to send ballot applications to voters already registered, and invitations for registration to previously unregistered voters outside of Kosovo, who would be able to cast their ballot by mail.<sup>384</sup>

### ***III. MONITORING***

Following the 2000 Federal Yugoslav Republic elections, when the OSCE was not permitted to field a monitoring mission, election monitoring in Serbia and Montenegro has become increasingly well established. Local election monitoring efforts are particularly active, and are regularly mentioned in election monitoring reports. Moreover, the OSCE, in its election monitoring reports, regularly discusses issues related to IDP voting.

### ***IV. RECOMMENDATIONS***

The significant improvements made in electoral administration in Serbia and Montenegro has primarily benefited IDPs inside the Republic of Serbia. Those displaced to the Republic of Montenegro, by contrast, have been unable to vote in either Serbia or Montenegro. At the same time, the international community has made great efforts to facilitate absentee voting for elections held in Kosovo. In light of this situation, the following recommendations are made:

- *Allow* absentee voting in elections in the Republic of Serbia to enfranchise voters displaced to Montenegro.
- *Ensure* that the permanent residency requirement for electoral participation in the Republic of Montenegro does not exclude displaced persons from voting.
- *Grant* displaced voters the opportunity to freely choose whether to register for electoral participation in their temporary or permanent places of residence.
- *Identify* and remove the bars to the electoral participation of Roma IDPs. In particular, arrangements need to be made to ensure that they receive identification documents. Special efforts also should be made to provide them with electoral information in their own language.

## **TURKEY**

*There is very little information with respect to the electoral participation of IDPs in Turkey. It is unclear, for instance, whether IDPs have the right to absentee voting. Moreover, a number of general concerns with the electoral process, including harassment of candidates and election observers in the southeast, restrictions on the use of non-Turkish languages, and restrictions on freedom of speech could potentially affect the political participation of IDPs.*

### ***I. IDP SITUATION OVERVIEW***

The current number of IDPs in Turkey is a matter of some controversy. While the Turkish Government provided a figure of 353,576, Turkish NGOs estimate a number between one and three million.<sup>385</sup> Almost all of these IDPs are Kurds.<sup>386</sup> The bulk of this displacement occurred specifically within the context of the Kurdistan Workers' Party (PKK) insurgency and the Government's counter-insurgency operation in the southeast of the country from 1985 to 1999.<sup>387</sup>

At present, Turkey is promoting the return of IDPs and its new Government has become receptive to cooperation with international agencies in addressing the situation of internal displacement.<sup>388</sup> According to the Government, approximately 25 percent of IDPs returned to their homes by December 2003, although these figures have not been independently verified.<sup>389</sup> In the view of human rights observers, the Government's support of return and collaboration with international agencies has thus far been inadequate, with insufficient financial and material reconstruction assistance made available.<sup>390</sup> Furthermore, renewed fighting between Kurdish guerrillas and the Turkish military in the southeast, and the PKK's decision in 2003 to end its four-year-old unilateral ceasefire could herald further conflict and potential displacement.<sup>391</sup>

### ***II. IDPs AND ELECTIONS***

There is very little information with respect to the electoral participation of IDPs. However, the issue can be looked at from the context of political participation and status of minorities more broadly.

Parliamentary Election, 3 November 2002: According to the OSCE, this election was transparently administered, an active election campaign took place and voters were offered genuine choice.<sup>392</sup> The total voter turnout was 78.9 percent.<sup>393</sup>

The electoral system, however, gave little chance of parliamentary representation to small parties, and was therefore adverse to the representation of minorities within the electorate. To register for the 2002 parliamentary election, political parties had to have offices in at least half of the country's 85 provinces, and in at least one third of the districts in each province. To enter Parliament, furthermore, they had to obtain at least ten percent of the votes cast nationwide. This "double barrier," the OSCE concluded, represented "a significant hurdle for all political parties and especially for any regionally

based parties.”<sup>394</sup> Only 2 out of 18 parties managed to satisfy both criteria with the result that in the election,<sup>395</sup> forty-five percent of the electorate therefore voted for parties that would have no parliamentary representation. The OSCE recommended that the ten percent threshold, which was “unusually high in Europe,” be lowered for future elections.<sup>396</sup>

The only mention of IDPs in OSCE reports on the election indicates that “[i]nterlocutors appeared satisfied that internally displaced persons could freely register and vote in their new places of residence in Turkey.”<sup>397</sup> It should be noted, however, that the OSCE was unable to verify this information first hand. It is also unclear whether absentee ballots were available for IDPs to vote in their places of permanent residence prior to displacement.

Of potential impact on IDP voting, the OSCE noted that there were credible reports by domestic and international human rights groups and the Turkish media of harassment of candidates and parties, especially in the southeast. Supporters of the pro-Kurdish Democratic People’s Party (DEHAP) were detained by security forces and village leaders were reportedly pressured to keep villagers from supporting the party. Furthermore, in a number of cases, villagers and domestic election observers were allegedly beaten.<sup>398</sup> On election day, human rights groups reported irregularities in the southeast in particular “enforced open voting in many villages, detentions, and the ejection of party observers from polling stations.”<sup>399</sup>

Generally, the use of languages other than Turkish in campaigning was forbidden by the Law on Basic Provisions on Elections and Voter Registers.<sup>400</sup> DEHAP asserted that these restrictions limited its ability to communicate with Kurdish voters. The OSCE recommended that the use of non-Turkish languages be permitted in political campaigning.<sup>401</sup> It has also been suggested that the low literacy levels of Kurdish women in the southeast act as a barrier to their voting.<sup>402</sup>

Furthermore, restrictions on freedom of expression made it difficult for Kurds to advocate for greater autonomy.<sup>403</sup> For example, prison sentences may be handed down for “insult to the State and to State institutions and threats to the indivisible unity of the Turkish Republic.”<sup>404</sup> Separatist propaganda may be penalized under Turkey’s Anti-Terrorism Law.<sup>405</sup> A section of the Penal Code pertaining to “support for illegal organizations”<sup>406</sup> has also been used to prosecute non-violent speech.

Local Elections, 28 March 2004: These elections were not monitored by the OSCE. The International Federation for Human Rights (FIDH) noted that “[a]lthough the elections were reported to be largely fair,” it had “been informed of several abuses in the South East.”<sup>407</sup> FIDH drew attention to harassment and an incident of electoral fraud, both directed against DEHAP. No specific information is available with regard to the participation of IDPs in these elections. Indeed there are no reports about any groups, official or otherwise, that registered IDPs to vote in their new places of residence.

Generally speaking, while the Government continues to restrict the political activities of some of its opponents, the US State Department concluded that, in late 2003, “[t]here

were no legal restrictions on political activities by minorities. Some minority groups were active in political affairs. Many members of Parliament and senior Government officials were Kurds.”<sup>408</sup> In July 2003, legislation was adopted to allow broadcasting of non-Turkish programs on private media outlets, in addition to state media. It is not clear, however, whether this applies to elections and thus removes the earlier restrictions on campaigning in languages other than Turkish.

### ***III. MONITORING***

Due to Turkey’s desire to become a member of the European Union and the need to conform to international standards and commitments, there is now a greater openness to international organizations and human rights observers, which for a long time were denied entrance and privileges. Despite this development, however, there appears to be little information available regarding IDP voting. The 3 November 2002 parliamentary election was the first time that the OSCE was invited to observe an election in Turkey.<sup>409</sup> The OSCE did not monitor the 2004 local elections.

### ***IV. RECOMMENDATIONS***

To ensure that IDPs in Turkey are fully able to exercise their right to vote, it is recommended that the following steps be taken:

- *Ensure* that legal frameworks are in place to protect the rights of IDPs, including their right to electoral participation and absentee voting.
- *Collect* more comprehensive data on the IDP population at large and assess any barriers they face to electoral participation, with a view to strengthening their position in the electoral process.
- *Introduce* targeted monitoring of IDP electoral participation, allowing safe and unimpeded access to both domestic and international monitors.
- *Remove* restrictions on the use of minority languages in the electoral process and assist those with low literacy levels to exercise their right to vote.
- *Lower* the legal thresholds for political representation, as well as other legal obstacles to political organizations representing minorities.

# **TURKMENISTAN**

*In the absence of any credible democratic process in Turkmenistan in over a decade, the possibilities for genuine political participation by the population at large are severely limited. IDPs face additional barriers as a result of discrimination.*

## ***I. IDP SITUATION OVERVIEW***

Turkmenistan's already poor human rights record worsened in November 2002 following an attempted assassination on the life of President Saparmurat Niyazov. The Government moved quickly to suppress opposition groups and severely restricted a range of already limited civil and political liberties. Since 2001, the Turkmen Criminal Code has included resettlement as a punishment for certain crimes, and presidential decrees passed in November 2002 and January 2003 further articulate this policy. The 2002 decree, for example, prescribes forcible relocation for those "who disturb tranquility in society with their immoral behavior and do not carry out their civic duty to strengthen the country's economy, [and] who have lost trust and deserve condemnation." It further states that persons who have been relocated are to be deprived of their privileges.<sup>410</sup>

This policy of forced relocation has targeted in particular the Uzbek minority. Some 2,000 Uzbeks were relocated from their homes on the border with Uzbekistan in January 2003 to a desert region near Kazakhstan. Other victims include private citizens living in the capital Ashgabat, whose homes have been demolished as part of a national beautification program. Moreover, religious minorities, such as the Jehovah's Witnesses and Baha'i communities, have lived under the threat of eviction and suffered internal exile or forced labor in corrective colonies. According to the Norwegian Refugee Council, those who have had their property taken away have not been properly compensated for their losses. The overall number of displaced remains undetermined.

## ***II. IDPs AND ELECTIONS***

Turkmenistan is a one-party state, with President Niyazov's Democratic Party of Turkmenistan (DPT) retaining a monopoly on political power.<sup>411</sup> Niyazov was elected, unopposed, to the post of president during the last presidential election in June 1992. Though elected for a five-year term, a referendum held in January 1994 decided that Niyazov would be president until 2002, and in 1999 the Parliament (Majlis) decided that Niyazov's term in office would be extended indefinitely.<sup>412</sup> Parliament's 50 members are elected for five-year terms in single seat constituencies, and all candidates at the December 1999 elections belonged to the country's single legal party. Furthermore, the unicameral Parliament of Turkmenistan has no independent authority and was replaced by the Peoples' Council in August 2003 as the supreme legislative body. In the same month Niyazov was elected by council delegates to a life-term as Chairman of the People's Council. The 65 members elected to the People's Council in April 2003 all belong to the DPT. Clearly, no political opposition or dissent is allowed.

It is against this background that displaced persons and citizens in general must struggle to exercise their right to vote.

### ***III. MONITORING***

International monitors continue to be barred from the country, and there is little information available regarding the human rights situation, including those internally exiled.

### ***IV. RECOMMENDATIONS***

In the absence of basic elements of a democratic system, effective political participation by IDPs as well as the population in general is severely constrained. The following recommendations are put forth:

- *Eliminate and cease* the deliberate policy of forced relocation and internal exile, largely aimed at the Uzbek minority and political dissenters. Those affected by this policy should have all their rights and privileges reinstated.
- *Allow* the registration of political parties other than the Democratic Party of Turkmenistan, in order to facilitate genuine political debate and electoral choice.
- *Allow* the safe and unhindered access of the OSCE, other international election monitors and human rights monitors, who should devote attention in their monitoring efforts to the situation of IDPs.

## **UZBEKISTAN**

*No elections have taken place in Uzbekistan since the displacement of several thousand people in 2000. It therefore is too early to assess to what extent IDPs are able to exercise their right to vote. However, in a carry-over from the Soviet system of propiska, the system of residency permits could potentially hamper IDP voting in future elections. The next scheduled elections are parliamentary elections, to take place 26 December 2004.*

### ***I. IDP SITUATION OVERVIEW***

Currently, there are approximately 3,000 IDPs in Uzbekistan. In 2000, villagers from the Sukhandaria region of Uzbekistan, which lies on the border with Tajikistan, were forcibly relocated by the authorities as part of a counter-insurgency response to cross-border raids by the Islamic Movement of Uzbekistan (IMU).<sup>413</sup> The displaced population, the majority of whom are ethnic Tajiks, have not yet been permitted to return to their homes and some continue to face harassment by authorities for alleged collaboration with IMU forces. Although IDPs were provided with makeshift housing, they live in extreme poverty with reports of poor access to safe drinking water and shortages of food. As a result of the carryover of the Soviet *propiska* system, IDPs' freedom of movement is highly restricted: IDPs must seek permission from the authorities in order to change their place of residence. This prevents them from searching for economic opportunities in areas other than their current location, especially in urban centers; indeed IDPs reportedly risk imprisonment if they seek work in places other than where they have been relocated by the authorities.<sup>414</sup> This system of residency requirements not only affects IDPs' ability to seek better economic prospects, but also can affect their right to vote, in that it ties their exercise of this right to a specific location.

### ***II. IDPs AND ELECTIONS***

The last election in Uzbekistan was held in December 1999, before displacement occurred in Uzbekistan.<sup>415</sup> It therefore is too early to assess to what extent IDPs are able to exercise their right to vote.

### ***III. MONITORING***

According to Human Rights Watch, the work of civil society groups, international monitors and local human rights groups has been severely undermined in Uzbekistan. The activities of organizations such as the National Democratic Institute and the International Republican Institute, for example, have been extremely restricted and only two local human rights groups were permitted to register with authorities.<sup>416</sup> What is more, the OSCE has noted the absence of legislative provisions allowing for domestic non-partisan observation.<sup>417</sup> The OSCE Needs Assessment Mission sent to Uzbekistan in advance of the December vote recommended that the OSCE deploy a Limited Election Observation Mission for the elections to be held on 26 December 2004.<sup>418</sup>

#### ***IV. RECOMMENDATIONS***

The ability of IDPs to exercise their right to vote should be monitored in forthcoming elections, most immediately the parliamentary election of 26 December 2004. To this end, the following recommendations are put forth:

- *Eliminate* the *propiska* system so as to enable IDPs to vote wherever they live in Uzbekistan.
- *Ensure* the monitoring of upcoming elections by local observers and by the OSCE and other international observers. Particular attention should be paid by such monitoring efforts to the arrangements for IDP voting, including absentee voting and voter registration.

## CONCLUSIONS AND RECOMMENDATIONS

The OSCE's Copenhagen Document of 1990 stipulates that every person who has the right to vote be allowed to exercise this right without distinction of any kind. Individuals do not lose this right because they are internally displaced.

And yet, many IDPs in the OSCE region experience difficulties in exercising their right to vote. In particular, the findings of this study reveal that IDPs have experienced obstacles such as:

- lack of documentation;
- discriminatory practices;
- obsolete and restrictive residence requirements, ie. *propiska*;
- inadequate arrangements for absentee voting;
- lack of timely and adequate information about IDP voting arrangements being provided both to IDPs as well as to electoral officials; and
- insecurity and acts of intimidation.

All of these restrictions have hampered voting by IDPs in recent elections within the OSCE. For the most part, these problems arise in situations of protracted displacement, in which IDPs may be denied the right to political participation for years on end. At the same time, unlike in emergency situations, there also exists the opportunity to take corrective measures. And yet, there may be limited national capacity, especially technical expertise, to institute special measures to enable IDPs to vote.

In some cases the difficulties that IDPs face in voting are well documented whereas in others, an absence of monitoring and reporting on their particular situation has meant that many problems go unreported and unaddressed. In recent years, the OSCE has begun to give attention to this important issue, especially at the field level where, in a number of countries, field missions have actively engaged in monitoring and reporting on the voting rights of IDPs. Such efforts, however, have tended to be *ad hoc*, whereas the principle of universal and equal suffrage requires a comprehensive and systematic approach.

It is therefore critically important for the OSCE to mainstream into its work on elections efforts to ensure that IDPs are able to fully and freely exercise their right to vote. To this end, the following ten recommendations are put forth:

**First**, the OSCE, both at the policy level and in the field, should devote greater and more systematic attention to the voting rights of IDPs. Particular priority should be given to mainstreaming IDP voting rights into the work of election observation missions and to ensuring that there is systematic monitoring and reporting on the extent to which IDPs are in fact able to vote.

**Second,** OSCE election monitors deployed to countries with internal displacement must be sensitized to the particular challenges IDPs often face in exercising their voting rights, should receive training on best practices for addressing these problems, and be granted full and safe access to all polling stations.

**Third,** OSCE participating states should take all necessary measures to ensure that IDPs are able to fully and freely exercise their right to vote. Where national electoral legislation has the effect of restricting IDPs' voting rights, legislative reform must be undertaken to bring electoral laws into line with international human rights standards and the Guiding Principles on Internal Displacement.

**Fourth,** in countries with internal displacement, national and local authorities with responsibilities for the administration of elections should be sensitized to the particular challenges that IDPs often face and receive guidance on how best to address these challenges. Capacity-building support and technical assistance from ODIHR, particularly in regard to voter registration, the administration of absentee polling stations as well as public awareness and voter education, could be valuable in this regard.

**Fifth,** voter registration processes must reach and systematically register internally displaced voters. Weaknesses in registration systems have been shown to directly and disproportionately impact upon the ability of IDPs to participate in elections. Special measures will be required to address problems such as the loss or destruction of personal identity documents. In addition, the *propiska* system of residency certification, though officially abolished, continues to impose practical obstacles to IDPs' participation in elections in a number of countries, and must be addressed. Working with national governments, ODIHR could provide assistance in overcoming these obstacles.

**Sixth,** special polling arrangements such as absentee voting facilities and transportation will need to be put in place to enable IDPs to cast their ballot in the electoral constituencies of their original places of residence, should they so choose. If, on the other hand, IDPs prefer to cast their ballots in the districts where they temporarily reside, they must be permitted to do so, and without any penalty such as loss of benefits or forfeit of their right to return. It must be emphasized that participation by IDPs in elections in their place of temporary residence in no way abrogates their right to return.

**Seventh,** wherever they vote, IDPs, and indeed all electors, must be able to cast their ballots in a secure environment. Adequate measures must be in place to ensure safety at polling sites. Under no circumstances should displaced voters be required to return to or traverse unsafe areas to exercise their right to vote.

**Eighth,** IDPs should be given a say in the design of any special electoral procedures created to address their particular situation and should receive clear and accurate information about the procedures to enable them to exercise their right to vote. They must also have equal access to campaign information.

**Ninth**, information on voting arrangements as well as campaign material should be available to IDPs in a language they can understand and be accessible to those with low literacy.

**Tenth**, civil society can play a valuable role in promoting awareness among IDPs of their voting rights as well as in monitoring and reporting on the extent to which they are able to exercise these rights. Efforts by civil society organizations on behalf of IDPs should be encouraged and supported.

# ENDNOTES

## Introduction

<sup>1</sup> Brett Lacy, “*Building Accountability, Legitimacy, and Peace: Refugees, Internally Displaced Persons, and the Right to Political Participation*,” paper prepared for the International Foundation for Elections Systems, August 2004, p. 4.

<sup>2</sup> The Universal Declaration of Human Rights, Article 21(1).

<sup>3</sup> See Walter Kälin, *Guiding Principles on Internal Displacement. Annotations* (Washington, DC: American Society of International Law and the Brookings Institution Project on Internal Displacement, 2000) Studies in Transnational Legal Policy, No. 32, p. 57; and Report by Francis M. Deng, Representative of the Secretary-General, *Internally Displaced Persons. Compilation and Analysis of Legal Norms*, submitted pursuant to Commission on Human Rights Resolution 1995/77 (UN Doc. E/CN.4/1996/52/Add.2), December 5, 1995, paras. 350-358.

<sup>4</sup> Human Rights Committee, “General Comment 25: The right to participate in public affairs, voting rights and the right of equal access to public service (Article 25),” para. 11. Reproduced in *Report of the Human Rights Committee Volume I*, (UN Doc. A/51/540), 1996.

<sup>5</sup> The *Guiding Principles on Internal Displacement* (UN Doc. E/CN.4/1998/53/Add.2) were developed by the Representative of the United Nations Secretary-General on Internally Displaced Persons at the request of the UN Commission on Human Rights and General Assembly and presented to the Commission on Human Rights in 1998. For a discussion of the international legal norms providing the basis for the Principles’ articulation of the right of IDPs to vote, see Kälin, *Annotations*, p. 57 and *Compilation and Analysis of Legal Norms*, paras. 350-358, *op.cit.*

<sup>6</sup> Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons* (UN Doc. E/CN.4/2000/83), para. 73.

<sup>7</sup> Simon Bagshaw, *Internally Displaced Persons and Political Participation: The OSCE Region*, Occasional Paper, The Brookings Institution Project on Internal Displacement, September 2000.

<sup>8</sup> *Profiles in Displacement: Georgia. Report of the Representative on his mission to Georgia, May 2000* (UN Doc. E/CN.4/2001/4/Add.4), paras. 68-69; *Profiles in Displacement: Azerbaijan. Report of the Representative on his mission to Azerbaijan, May 1998* (UN Doc. E/CN.4/1999/79Add.1), para. 116; OSCE/ODIHR, Brookings Institution Project on Internal Displacement and Norwegian Refugee Council, *Regional Workshop on Internal Displacement in the South Caucasus (Armenia, Azerbaijan, Georgia)* May 10-12, 2000. Summary Report, June 2000.

<sup>9</sup> Final Report, OSCE Supplementary Human Dimension Meeting on Migration and Internal Displacement, Vienna, Austria, 25 September 2000, p. 5.

<sup>10</sup> The total number of IDPs in these countries is approximately three million, or 12 percent of the world’s total internally displaced population. Norwegian Refugee Council, *Protecting Internally Displaced Persons in the OSCE Area: A Neglected Commitment*, October 2003, p. 6.

<sup>11</sup> See [www.iom.int/pep](http://www.iom.int/pep)

## The Role of the OSCE

<sup>12</sup> Document of the Copenhagen Meeting of the Conference on the Human Dimension of the Conference for Security and Cooperation in Europe, 29 June 1990, Preamble and paras. 6-7.

<sup>13</sup> Final Report, OSCE Supplementary Human Dimension Meeting, Migration and Internal Displacement, Vienna, Austria, 25 September 2000, p. 5.

<sup>14</sup> OSCE Ministerial Council, Maastricht Meeting, “*Decision No. 4/03: Tolerance and Discrimination*,” MC.DEC/4/03, 2 December 2003.

<sup>15</sup> OSCE Ministerial Council, Maastricht Meeting, “*Decision No. 5/03: Elections*,” MC.DEC/5/03, 2 December 2003.

<sup>16</sup> OSCE/ODIHR, *Existing Commitments for Democratic Elections in OSCE Participating States*, Warsaw, October 2003.

<sup>17</sup> *Ibid.*, p. 16.

<sup>18</sup> *Ibid.*, p. 33.

<sup>19</sup> OSCE/ODIHR, *Election Principles and Existing OSCE Commitments for Democratic Elections*, OSCE/ODIHR Discussion Paper, OSCE Supplementary Human Dimension Meeting, 15-16 July 2004, Vienna.

<sup>20</sup> *Ibid.*, pp. 8-9.

<sup>21</sup> Statement by the Brookings-SAIS Project on Internal Displacement, “The Voting Rights of Internally Displaced Persons,” PC.SHDM.NGO/12/04, 15 July 2004.

<sup>22</sup> Austrian Delegation, Statement on IDPs Voting Rights, Supplementary Human Dimension Meeting on “Electoral Standards and Commitments,” Vienna, 15-16 July 2004.

<sup>23</sup> OSCE/ODIHR, *The ODIHR Election Observation Handbook*, Fourth Edition, April 1999.

<sup>24</sup> *Ibid.*, p. 15.

<sup>25</sup> *Ibid.*, p. 17.

<sup>26</sup> *Ibid.*, p. 18.

<sup>27</sup> A number of countries seconding OSCE election monitors also provide them with pre-deployment training, though information on the content of these national training programs is not readily available.

<sup>28</sup> Communications with the OSCE/ODIHR Elections Unit in 20 August 2004 querying about training on IDP voting rights did not elucidate this issue.

## **Armenia**

<sup>29</sup> The attempted secession of Nagorno-Karabakh, a largely Armenian enclave within Azerbaijan, triggered a war beginning in 1991 between Azerbaijan and the enclave’s Armenian population, supported by Armenia. The conflict, which resulted in Armenian forces occupation of the enclave, caused mass internal displacement in Azerbaijan. It also resulted in displacement within Armenia, particularly in districts bordering Azerbaijan. A cease-fire has been in place since 1994; however, a political solution to the conflict continues to be elusive. See *Profiles in Displacement: Armenia*, Report of the Representative of the Secretary-General on Internally Displaced Persons to the Commission on Human Rights (UN Doc. E/CN.4/2001/5/Add.3), 6 November 2000; Norwegian Refugee Council Global IDP Project, *Armenia: Profile Summary*, June 2003, available at [www.idpproject.org](http://www.idpproject.org)

<sup>30</sup> US Committee for Refugees, *World Refugee Survey 2003*, p. 172.

<sup>31</sup> Norwegian Refugee Council, Global IDP Project, “Trapped in displacement: Internally displaced people in the OSCE area,” November 2004.

<sup>32</sup> *Profiles in Displacement: Armenia*, Report of the Representative of the Secretary-General, para. 11.

<sup>33</sup> *Profiles in Displacement: Armenia*, Report of the Representative of the Secretary-General, para. 31.

<sup>34</sup> The following OSCE monitoring reports were consulted: Final Report on Presidential Elections in Armenia, 22 September 1996; Report on implementation of recommendations contained in the final report on presidential elections in Armenia, 22 September 1996; Final Report on Presidential Elections in Armenia, 16 and 30 March 1998; Final Report on Parliamentary Elections in Armenia, 30 May 1999; Needs Assessment Report on 19 February 2003 Presidential Elections in Armenia, 11-15 December 2002; Final report on Parliamentary Elections in Armenia, 25 May 2003.

<sup>35</sup> Lusine Hovhannisian and Tatshat Stepanyan, "Report on the Guiding Principles on Internal Displacement and the Law of the Republic of Armenia," in Roberta Cohen, Walter Kälin, Erin Mooney (eds.), *The Guiding Principles on Internal Displacement and the Law of the South Caucasus: Georgia, Armenia, Azerbaijan*, Studies in Transnational Legal Policy, No. 34, Washington, DC: American Society of International Law, 2003, p. 243.

<sup>36</sup> *Ibid.*, p. 245.

<sup>37</sup> *Ibid.*, p. 182.

<sup>38</sup> "Joint Recommendations on the Electoral Law and the Electoral Administration in Armenia by the OSCE/ODHIR and the Venice Commission on the basis of comments by Mr. Michael Krennerich (Venice Commission, Expert, Germany)," 17 December 2003, p. 3.

<sup>39</sup> US Department of State, Bureau of Democracy, Human Rights and Labor, "*Country Reports on Human Rights Practices 2003: Armenia*," 25 February 2004, section 2d.

<sup>40</sup> OSCE/ODIHR, *Armenia Presidential Election September 24, 1996: Final Report*, and OSCE/ODIHR, *Republic of Armenia Presidential Elections, March 16 and 30, 1998, Final Report*, 9 April 1998.

<sup>41</sup> OSCE/ODIHR, *Armenia Presidential Election September 24, 1996: Final Report*.

<sup>42</sup> OSCE/ODIHR, *Republic of Armenia Presidential Elections, March 16 and 30, 1998, Final Report*, 9 April 1998, p. 4.

<sup>43</sup> OSCE/ODIHR, *Armenia Presidential Election September 24, 1996: Final Report*.

<sup>44</sup> Electoral Code of the Republic of Armenia. Since its adoption, it has been successively amended. However, none of these amendments have concerned issues related to IDP voting.

<sup>45</sup> OSCE/ODHIR, *Joint Recommendations on the Electoral Law and the Electoral Administration in Armenia*, p. 3.

<sup>46</sup> *Ibid.*, p. 8.

<sup>47</sup> OSCE/ODIHR, *Republic of Armenia: Parliamentary Election 30 May 1999: Final Report*, 30 July 1999, p. 13.

<sup>48</sup> National Democratic Institute for International Affairs (NDI), *Final Report on the May 30, 1999 Parliamentary Elections in Armenia*.

<sup>49</sup> OSCE/ODIHR, *Republic of Armenia: Parliamentary Election 30 May 1999: Final Report*, 30 July 1999, p. 20. According to the NDI, there were credible allegations of deliberate politically motivated fraud with voting lists. Media and political party sources estimated that between 100,000 and 200,000 voters were thus disenfranchised. At the same time, the NDI cited "reliable sources" estimating the number of fraudulent entries into the voting register at about 750,000 out of a total of 2.2 million voters. NDI, *Final Report on the May 30, 1999 Parliamentary Elections in Armenia*.

<sup>50</sup> OSCE/ODIHR, *Republic of Armenia: Parliamentary Election 30 May 1999: Final Report*, 30 July 1999, p. 13.

<sup>51</sup> OSCE/ODIHR, *Republic of Armenia: Presidential Election 19 February and 5 March 2003, Final Report*, 28 April 2003, p. 7 and OSCE/ODIHR, *Republic of Armenia: Parliamentary Elections 25 May 2003: Final Report*, 31 July 2003, p.10.

<sup>52</sup> *Ibid.* p. 10.

### **Azerbaijan**

<sup>53</sup> While the Government of Azerbaijan cites a figure of 570,000 (Global IDP Project, “Total internally displaced population in the government-controlled territory: 570,000 persons (as of January 2003),” April 2003), the OSCE/ODIHR report on the 2003 Presidential Election contains a figure of 800,000 (OSCE/ODIHR, “Republic of Azerbaijan, Presidential Election 15 October 2003, OSCE/ODIHR Election Observation Report,” 12 November 2003, p. 3). The US Committee on Refugees put the number at “more than 576,000” in late 2002 (US Committee on Refugees, *World Refugee Survey 2003*, Country Report Azerbaijan).

<sup>54</sup> Imran Valiyev and Elkhan Asadov, “Report on the Guiding Principles on Internal Displacement and the Law of the Republic of Azerbaijan,” in: Roberta Cohen, Walter Kälin, Erin Mooney (eds.), *The Guiding Principles on Internal Displacement and the Law of the South Caucasus: Georgia, Armenia, Azerbaijan*, Studies in Transnational Legal Policy, No. 34, Washington, DC: American Society of International Law, 2003, pp. 267-336.

<sup>55</sup> *Ibid.*, pp. 315-317. According to national legislation, the term Forcibly Displaced Person refers to “any person who has moved to another place being forced to leave his/her permanent residence within the territory of the Republic of Azerbaijan in connection with military aggression, natural or technological disaster.” Law of the Republic of Azerbaijan on the Status of Refugees and Forcibly Displaced (Persons Displaced within the Country) Persons, Chapter I, Article 1.

<sup>56</sup> Law of the Republic of Azerbaijan on the Status of Refugees and Forcibly Displaced (Persons Displaced within the Country) Persons, Chapter II, Article 6.

<sup>57</sup> US Department of State, Bureau of Democracy, Human Rights and Labor, “*Country Reports on Human Rights Practices 2003, Azerbaijan*,” 25 February 2004.

<sup>58</sup> For example, the presence of officials or police at polling stations was left entirely unregulated. *OSCE/UN Report of the OSCE/UN Joint Electoral Mission in Azerbaijan on Azerbaijan’s 12 November 1995 Parliamentary Election and Constitutional Referendum*, January 1996.

<sup>59</sup> The one exception was that no election took place for the seat for Khankendi, the capital of Nagorno-Karabakh.

<sup>60</sup> *OSCE/UN Report of the OSCE/UN Joint Electoral Mission in Azerbaijan on Azerbaijan’s 12 November 1995 Parliamentary Election and Constitutional Referendum*, January 1996.

<sup>61</sup> OSCE/ODIHR, *Law on the Election of the President of the Republic of Azerbaijan, OSCE/ODIHR Comments*, 22 August 2000, p. 4.

<sup>62</sup> *Ibid.*, p. 6.

<sup>63</sup> OSCE/ODIHR, *Presidential Election in the Republic of Azerbaijan: 11 October 1998*, 11 November 1998, pp. 5-6.

<sup>64</sup> *Ibid.*, p. 12.

<sup>65</sup> OSCE/ODIHR, *Republic of Azerbaijan: Parliamentary Elections 5 November 2000 and 7 January 2001, Final Report*, 15 January 2001, p. 1.

<sup>66</sup> The Ministry for Refugees and Internally Displaced Persons has primary responsibility for IDP populations in Azerbaijan. It drafts legal acts regulating the legal status of IDPs, takes decisions with respect to granting IDP status, and makes recommendations regarding social issues that affect IDPs.

<sup>67</sup> OSCE/ODIHR, *Republic of Azerbaijan: Parliamentary Elections 5 November 2000 and 7 January 2001, Final Report*, p. 8. This number is contested. According to Berit Lindeman approximately 220,000 IDPs were registered on these voter lists, out of a total of 569,000 officially registered IDPs. Berit Lindeman, *Azerbaijan: Parliamentary Elections 2000 Including Repeat Elections*, Norwegian Resource Bank for Democracy and Human Rights Working Paper, 2001, p. 7.

<sup>68</sup> OSCE/ODIHR, *Republic of Azerbaijan: Parliamentary Elections 5 November 2000 and 7 January 2001, Final Report*, p. 8. Under Azerbaijan's mixed electoral system, parliamentary seats are allocated on the basis of single seat constituencies as well as national proportional representation. IDPs could participate as absentee voters in both the single and proportional contests.

<sup>69</sup> OSCE/ODIHR, *Republic of Azerbaijan: Parliamentary Elections 5 November 2000 and 7 January 2001, Final Report*, pp. 8 and 15.

<sup>70</sup> *Ibid.*, p. 8. See also Lindeman, *Azerbaijan: Parliamentary Elections 2000 Including Repeat Elections*, p. 5.

<sup>71</sup> *Radio Free Europe/Radio Liberty*, "Displaced persons demand Azerbaijan President's resignation," 15 November 2000.

<sup>72</sup> IOM/Participatory Elections Project (PEP), *Electoral Displacement in the Caucasus: Georgia and Azerbaijan, Action Plan II*, Final Report, June/July 2003, pp. 31-43.

<sup>73</sup> *Ibid.*, p. 35.

<sup>74</sup> *Ibid.*, p. 34.

<sup>75</sup> *Ibid.*, p. 35.

<sup>76</sup> Sabirabad is located approximately three hours from Baku.

<sup>77</sup> IOM/PEP, *Electoral Displacement in the Caucasus*, p. 33.

<sup>78</sup> OSCE/ODIHR, *Republic of Azerbaijan: Presidential Election 15 October 2003*, 12 November 2003, p. 1.

<sup>79</sup> *Ibid.*, pp. 3-5.

<sup>80</sup> Heidi Sødergren, *Azerbaijan: Presidential Elections October 2003*, Norwegian Resource Bank for Democracy and Human Rights Report 6/2004, January 2004, p. 6.

<sup>81</sup> OSCE/ODHIR, *Republic of Azerbaijan: Presidential Election 15 October 2003*, p. 4.

<sup>82</sup> *Ibid.*, p. 11.

<sup>83</sup> Fariz Ismailzade, *Azerbaijan's Presidential Elections: Party Platforms and Prospects for a Unified Opposition*, Caucasus Initiative, Center for Strategic and International Studies, 17 July 2003, p. 4.

<sup>84</sup> *Ibid.*, p. 4.

<sup>85</sup> *Ibid.*, pp. 16-17.

## **Bosnia and Herzegovina**

<sup>86</sup> NRC Global IDP Project, "Profile Summary, Bosnia and Herzegovina: 330,000 people still displaced eight years after the peace agreement," January 2004.

<sup>87</sup> Simon Bagshaw, *Internally Displaced Persons and Political Participation: The OSCE Region*, Occasional Paper, The Brookings Institution Project on Internal Displacement, September 2000, p. 8.

<sup>88</sup> *Ibid.*, p. 8. According to the International Crisis Group (ICG), as cited by Bagshaw, this in fact had the positive side effect of effectively forcing freedom of movement, encouraging intermixing between former neighbors and helping IDPs dispel some of their fears of returning to Mostar.

<sup>89</sup> Anne Charbord, *Human Rights of Internally Displaced Persons in Bosnia and Herzegovina*, Doctoral Thesis, University of Vienna, 2003, p. 189.

<sup>90</sup> Dayton Peace Accords, Annex 3: Agreement on Elections, Art. IV.

<sup>91</sup> Bagshaw, *Internally Displaced Persons and Political Participation: The OSCE Region*, p. 8. This system drew two sets of criticism. First, it was seen to cement ethnic separation by allowing IDPs to vote in their municipality of displacement. Second, voting in places of intended residence was seen as opening to fraud through pressuring IDPs to register in particular municipalities. In addition, it was seen as too early for IDPs to decide in 1996 whether to return to their home municipalities or not. See also Charbord, *Human Rights of Internally Displaced Persons in Bosnia and Herzegovina*, p. 200.

<sup>92</sup> Bagshaw, *Internally Displaced Persons and Political Participation: The OSCE Region*, p. 8.

<sup>93</sup> ICG figures cited in Charbord, *Human Rights of Internally Displaced Persons in Bosnia and Herzegovina*, p. 200.

<sup>94</sup> ICG, *Elections in Bosnia and Herzegovina*, 22 September 1996, p. 35. Cited in Bagshaw, *Internally Displaced Persons and Political Participation: The OSCE Region*, p. 9.

<sup>95</sup> Bagshaw, *Internally Displaced Persons and Political Participation: The OSCE Region*, p. 9.

<sup>96</sup> *Ibid.*, p. 9.

<sup>97</sup> *Ibid.*, p. 10. While the UN High Commissioner for Refugees (UNHCR) was to provide bus transportation for voters, NATO was responsible for ensuring they could travel safely. There were, however, serious problems in implementing these plans. Email correspondence, Jeremy Grace, Research Coordinator, IOM Participatory Election Project, 17 October 2004.

<sup>98</sup> Charbord, *Human Rights of Internally Displaced Persons in Bosnia and Herzegovina*, p. 201.

<sup>99</sup> Email correspondence, Jeremy Grace, 17 October 2004.

<sup>100</sup> Charbord, *Human Rights of Internally Displaced Persons in Bosnia and Herzegovina*, p. 203.

<sup>101</sup> Bagshaw, *Internally Displaced Persons and Political Participation: The OSCE Region*, p. 10.

<sup>102</sup> Email correspondence, Jeremy Grace, 17 October 2004.

<sup>103</sup> Bagshaw, *Internally Displaced Persons and Political Participation: The OSCE Region*, p. 10.

<sup>104</sup> *Ibid.*, p. 11. Reportedly, this was most notable in Brcko, where registration was suspended and later re-initiated due to large-scale fraud. Email correspondence, Jeremy Grace, 17 October 2004.

<sup>105</sup> *Ibid.*, p. 11.

<sup>106</sup> Charbord, *Human Rights of Internally Displaced Persons in Bosnia and Herzegovina*, p. 205. While shortening the residency requirement recently allowed displaced persons to cast their vote, it was criticized for not contributing to the ultimate goal of reversing ethnic cleansing through facilitating return and absentee voting in places of permanent residence.

<sup>107</sup> For these elections, OSCE has not produced the detailed reports it has provided for other elections in Bosnia and Herzegovina.

<sup>108</sup> These were in the form of Provisions Election Commission Rules and Regulations. They included rules protecting voters from forfeiting entitlements based on their chosen voting option as well as provisions banning the use of identification documents for purposes other than those related to voting. Furthermore, the post of an International Registration Officer empowered to oversee the process of establishing voters' eligibility was created, while OSCE was able to inspect records and documents relevant to establishing voter eligibility. In addition, penalties were introduced for municipalities either issuing false voting registers or not providing information. Allegations pertaining to these rules were adjudicated by the Election Appeals Sub-Commission (EASC) which was mandated to impose penalties. See Bagshaw, *Internally Displaced Persons and Political Participation: The OSCE Region*, p.11.

<sup>109</sup> Charbord, *Human Rights of Internally Displaced Persons in Bosnia and Herzegovina*, p. 206.

<sup>110</sup> ICG, "Bosnia's Municipal Elections 2000: Winners and Losers," 27 April 2000.

<sup>111</sup> *Ibid.*

<sup>112</sup> Charbord, *Human Rights of Internally Displaced Persons in Bosnia and Herzegovina*, p. 206.

<sup>113</sup> ICG, "Bosnia's November Elections: Dayton Stumbles," 18 December 2000, p. 22.

<sup>114</sup> Bagshaw, *Internally Displaced Persons and Political Participation: The OSCE Region*, p.8.

<sup>115</sup> OSCE/ODIHR, *Bosnia and Herzegovina General Elections 5 October 2002: Final Report*, 9 January 2003, p. 3.

<sup>116</sup> Printed in *Official Gazette* no. 23/01, 19 September 2001, with amendments published in BiH Official Gazettes no. 07/02, 10 April 2002, no. 09/02, 3 May 2002 and no. 20/02 3 August 2002.

<sup>117</sup> Article 19.8.

<sup>118</sup> Article 3.7.

<sup>119</sup> Article 3.7.

<sup>120</sup> OSCE/ODHIR, *Bosnia Herzegovina: Assessment of the Election Law for the 5 October 2002 Elections*, 25 July 2002, p. 15.

<sup>121</sup> Article 19.8.

<sup>122</sup> Article 19.9.

<sup>123</sup> Article 18.8.

<sup>124</sup> The European Commission for Democracy through Law of the Council of Europe ("Venice Commission") is the Council of Europe body which supports democratic consolidation through constitutional development in Eastern Europe.

<sup>125</sup> Council of Europe/Venice Commission, “Opinion on the Electoral Law of Bosnia and Herzegovina, Adopted by the Venice Commission at its 48<sup>th</sup> Plenary Meeting, Venice, Italy, 19-20 October 2002, based on Comments by Mr. Giorgio Malinverni (Member, Switzerland) and Mr. Jean-Claude Scholsem (Member, Belgium),” Strasbourg, France, 24 October 2001, Section 29.

<sup>126</sup> OSCE/ODHIR, *Bosnia Herzegovina: Assessment of the Election Law for the 5 October 2002 Elections*, 25 July 2002, p.22.

<sup>127</sup> OSCE/ODIHR, *Bosnia and Herzegovina General Elections 5 October 2002: Final Report*, 9 January 2003, p.6.

<sup>128</sup> *Ibid.*, p. 1.

<sup>129</sup> Email Correspondence with Mercè Castells, OSCE Election Advisor, Bosnia and Herzegovina, 31 August 2004.

<sup>130</sup> OSCE/ODIHR, *Bosnia and Herzegovina General Elections 5 October 2002: Final Report*, 9 January 2003, p.1.

<sup>131</sup> *Ibid.*, p. 19.

<sup>132</sup> *Ibid.*, p. 21.

<sup>133</sup> Email Correspondence with Mercè Castells, OSCE Election Advisor, Bosnia and Herzegovina, 31 August 2004.

<sup>134</sup> OSCE/ODIHR and Council of Europe, *International Election Observation Mission, 2004 Municipal Elections, Bosnia and Herzegovina, Statement of Preliminary Findings and Conclusions*, 3 October 2004, p. 6.

<sup>135</sup> *Ibid.*, p. 5.

### **Croatia**

<sup>136</sup> The Republika Srpska Krajina encompassed Krajina as well as Eastern and Western Slavonia. In late 1991, 80,000 ethnic Croats were expelled from Eastern Slavonia. Following the Croatian 1995 offensive in Krajina and Western Slavonia, more than 200,000 Serbs fled into Eastern Slavonia, Bosnia, and Croatia. In November 1995, the Croatian government and the Serb leadership signed the Basic Agreement on the Region of Eastern Slavonia, Baranja, and Sirmium. Before reverting back to Croatian control, these regions were demilitarized and placed under administration of the UN Transitional Authority for Eastern Slavonia (UNTAES) from November 1995 to January 1998. See NRC Global IDP Project, “The Conflict in Croatia: Overview,” 13 August 2002.

<sup>137</sup> Norwegian Refugee Council, *Protecting Internally Displaced Persons in the OSCE Area: A Neglected Commitment*, October 2003, p. 18 (figures as of July 2003).

<sup>138</sup> *Ibid.*

<sup>139</sup> Simon Bagshaw, *Internally Displaced Persons and Political Participation: The OSCE Region*, Occasional Paper, The Brookings Institution Project on Internal Displacement, September 2000, p. 12.

<sup>140</sup> See endnote 136 above.

<sup>141</sup> Bagshaw, *Internally Displaced Persons and Political Participation: The OSCE Region*, p. 12.

<sup>142</sup> *Ibid.*, p.13.

<sup>143</sup> *Ibid.*, p.13.

<sup>144</sup> *Ibid.*, p.13.

<sup>145</sup> *Ibid.*, p.13.

<sup>146</sup> *Ibid.*, p.13.

<sup>147</sup> OSCE/ODIHR, *Republic of Croatia: Local Government Elections 20 May 2001, Final Report*, 11 July 2001, p. 1.

<sup>148</sup> Law on the Election of Members of the Representative Bodies of Local and Regional Self-Government Units, 11 April 2001.

<sup>149</sup> OSCE/ODIHR, *Republic of Croatia: Local Government Elections*, p. 4.

<sup>150</sup> *Ibid.*

<sup>151</sup> Article 9, Law on the Election of Members of the Representative Bodies of Local and Regional Self-Government Units, 11 April 2001. By-elections can be held to rectify election results which are unreflective of the local population structure.

<sup>152</sup> This is mandated under Article 9 of the 1992 Law on Voter Registers.

<sup>153</sup> OSCE/ODIHR, *Republic of Croatia: Local Government Elections*, pp. 5-7.

<sup>154</sup> *Ibid.*, p. 10.

<sup>155</sup> *Ibid.*, p. 10.

<sup>156</sup> Mandatory Instruction VII (30/4/01) as cited in OSCE/ODIHR, *Republic of Croatia: Local Government Elections*, p. 8.

<sup>157</sup> *Ibid.*

<sup>158</sup> OSCE/ODIHR, *Republic of Croatia: Local Government Elections*, p. 8.

<sup>159</sup> *Ibid.*, p. 15.

<sup>160</sup> *Ibid.*, p. 15.

<sup>161</sup> OSCE/ODIHR, *Republic of Croatia: Parliamentary Elections 23 November 2003, Final Report*, 20 January 2004, p. 2.

<sup>162</sup> *Ibid.*, p. 1.

<sup>163</sup> Law on the Election of Representatives to the Croatian Parliament, amended on 2 April 2003.

<sup>164</sup> Constitutional Law on the Rights of National Minorities, Croatia, 13 December 2002.

<sup>165</sup> This means that whichever candidate receives the highest number of votes will win the contest, regardless of the actual number of votes received.

<sup>166</sup> Law on the Election of Representatives to the Croatian Parliament, Article 16. See OSCE/ODIHR, *Republic of Croatia: Parliamentary Elections*, pp. 3-4.

<sup>167</sup> *Ibid.* p. 7.

<sup>168</sup> *Ibid.*, p. 8. Albeit only through a “Reminder” on polling station procedures and not a “Mandatory Instruction.”

<sup>169</sup> *Ibid.*, p. 8. According to the OSCE, it is unclear whether this was intended to stop minorities from participating in the regular elections but could be understood at least to allow the SEC to implement such a policy. At the same time, the OSCE cites a constitutional provision which might prevent a policy of stopping minorities from voting in the general elections. Article 15 (3) of the Constitution reads: “Besides the general electoral right, the special right of the members of national minorities to elect their representatives into the Croatian Parliament may be provided by law.” OSCE/ODIHR, *Republic of Croatia: Parliamentary Elections*, p. 8.

<sup>170</sup> *Ibid.*, p.8.

<sup>171</sup> *Ibid.*, p. 8.

<sup>172</sup> Email communication with Vanja Skoric, GONG, 7-8 October 2004.

<sup>173</sup> GONG, “A Guide to the 2003 Parliamentary Elections,” p. 5.

<sup>174</sup> ICG, *After Milosevic, A Practical Agenda for Lasting Balkans Peace*, 26 April 2001, p. 176; Email communication with Vanja Skoric, GONG, 7- 8 October 2004.

<sup>175</sup> US Department of State, Bureau of Democracy, Human Rights and Labor, “Croatia Country Report on Human Rights Practices 2003,” 25 February 2004, Section 5.

<sup>176</sup> OSCE Mission to Croatia, *Status Report No. 10 – Assessment of Issues Covered by the OSCE Mission to the Republic of Croatia’s Mandate since 12 November 2001*, 21 May 2002, p. 7.

## Cyprus

<sup>177</sup> US Committee for Refugees, 1998, *World Refugee Survey 1998*: Country Report Cyprus, p. 172.

<sup>178</sup> Efforts at reaching a settlement between the two sides of the island have been attempted since 1974. The most recent series of negotiations under UN auspices led to a proposed Comprehensive Settlement of the Cyprus Problem being put to the Greek Cypriots and Turkish Cypriots in separate, simultaneous referendums in April 2004. The plan was endorsed by Turkish Cypriots, but overwhelmingly rejected by Greek Cypriots. As both sides had to approve the plan for it to come into effect, the island remained divided as it joined the EU in May 2004, with the EU *acquis communautaire* being suspended in the north.

<sup>179</sup> This figure includes children born after the initial conflict who have since been given the displaced status of their parents.

<sup>180</sup> US Committee for Refugees, 2004, *World Refugee Survey 2004*, Country Report Cyprus. See <http://www.refugees.org/world/countryindex/cyprus.cfm>

<sup>181</sup> NRC Global IDP Project, Cyprus Profile Summary, May 2003.

<sup>182</sup> It should be noted that there is, however, no evidence of Greek Cypriots living in the north expressing any interest in participating in local “elections” held in the northern part of the island, where neither the authorities nor the elections are internationally recognized.

<sup>183</sup> United Nations Commission on Human Rights (UNCHR), 21 March 2003, “*Questions of the Violations of Human Rights and Fundamental Freedoms in any Part of the World, Including the Question of Human Rights in Cyprus*,” Annex: Report of the Question of Human Rights in Cyprus submitted pursuant to Commission on Human Rights decision 2002/104 (UN Doc. E/CN.4/2003/31).

<sup>184</sup> NRC Global IDP Project, “Cyprus: Right to Vote: Minorities Cannot Vote in their Home Area (2003).”

<sup>185</sup> *Cyprus News Agency*, “Greek Cypriots give Turkish Cypriots the vote in June's Euro elections,” 30 January 2004.

## Georgia

<sup>186</sup> Norwegian Refugee Council, Profile of Internal Displacement: Georgia as of 18 March 2004. Available at: <http://www.idpproject.org>

<sup>187</sup> Article 33, Organic Law of Georgia on Parliamentary Elections, 1 September 1995.

<sup>188</sup> Chapter IX of the 1995 Election Law, concerning “Transitional Provisions for the 1999 Parliamentary Elections,” Article 59.

<sup>189</sup> See Roberta Cohen, Walter Kälin, Erin Mooney (eds.), *The Guiding Principles on Internal Displacement and the Law of the South Caucasus. Georgia, Armenia and Azerbaijan*, Studies in Transnational Legal Policy, No. 34 (Washington, DC: American Society of International Law, 2002), p. 158.

<sup>190</sup> Nana Sumbadze and George Tarkhan-Mouravi, *Working Paper on IDP Vulnerability and Economic Self-Reliance*, UNDP: July 2003, p. 39.

<sup>191</sup> *Profiles in Displacement: Georgia*. Report of the Representative of the Secretary-General (UN Doc. E/CN.4/2001/4/Add.4), 25 January 2001, para. 68.

<sup>192</sup> Norwegian Refugee Council, Profile of Internal Displacement: Georgia as of 18 March 2004, p. 81. Available at [www.idpproject.org](http://www.idpproject.org)

<sup>193</sup> *Profiles in Displacement: Georgia*, para. 69.

<sup>194</sup> Article 36 of the Law of Georgia on the Elections of Bodies of Local Government – “Sakrebulo,” 25 June 1998.

<sup>195</sup> *Ibid.*, citing Article 6.2, Law of Georgia on Forcibly Displaced – Persecuted Persons.

<sup>196</sup> *Profiles in Displacement: Georgia*, para. 67; Erin Mooney notes on mission to Georgia, May 2000.

<sup>197</sup> Simon Bagshaw, *Internally Displaced Persons and Political Participation: The OSCE Region*, Occasional Paper, The Brookings Institution Project on Internal Displacement, September 2000, p. 18.

<sup>198</sup> Larry Dershem, Nana Gurgenedze, Steve Holtzman, *Poverty and Vulnerability Among Internally Displaced Persons in Georgia: An Update of their Current Status and Circumstances*, paper prepared for the World Bank, November 2002, p. 36.

<sup>199</sup> OSCE/ODIHR, *Report on the Georgian Elections of 5 November 1995*, 17 November 1995, pp. 5-6, cited in Bagshaw, pp. 18-19.

<sup>200</sup> The lack of comment on the law, it has been suggested, might be explained by the fact that at that point and until 1996, ODIHR's election observation tended to focus on the day of elections itself, with little pre-election analysis. See Bagshaw, p. 19.

<sup>201</sup> Article 36 of the Law of Georgia on the Elections of Bodies of Local Government – “Sakrebulo,” 25 June 1998.

<sup>202</sup> OSCE Mission to Georgia, *Press Statement in Local Elections 15 November 1998* (17 November 1998), cited in Bagshaw, p. 19.

- <sup>203</sup> OSCE/ODIHR, *Georgia: Parliamentary Elections, 31 October and 14 November 1999. Final Report* 7 February 2000, p. 16.
- <sup>204</sup> *Ibid.* p. 16.
- <sup>205</sup> Bagshaw, *Internally Displaced Persons and Political Participation: The OSCE Region*, p. 19.
- <sup>206</sup> OSCE/ODIHR, *Georgia: Parliamentary Elections, 31 October and 14 November 1999. Final Report*, 7 February 2000, p. 91.
- <sup>207</sup> OSCE/ODIHR, *Final Report on Presidential Elections in Georgia, 9 April 2000, 9 June 2000*, p. 20.
- <sup>208</sup> IOM Participatory Elections Project, *Case: Georgia. 1999 Parliamentary and 2000 Presidential Elections*, p. 9, citing British Helsinki Human Rights Group, *Georgian Election 2000 Observation Report*. Available at [www.iom.int/pep/](http://www.iom.int/pep/)
- <sup>209</sup> Decision of the Constitutional Court of Georgia, #2/97/3, 21 December 2000.
- <sup>210</sup> *Ibid.* See also Giorgi Chkheidze and Konstantin Korkelia, 'Report on the Guiding Principles on Internal Displacement and the Law of Georgia,' in Cohen, Kalin and Mooney, p. 83.
- <sup>211</sup> Decision of the Constitutional Court of Georgia, #2/97/3, 21 December.2000.
- <sup>212</sup> *Ibid.*, See appended *Dissenting Opinion of the Member of the Constitutional Court of Georgia – Zaur Jinjolava*.
- <sup>213</sup> Erin Mooney, Human Rights Officer at the Office of the UN High Commissioner for Human Rights, 1997-2001.
- <sup>214</sup> OSCE/ODIHR, Brookings Institution Project on Internal Displacement and Norwegian Refugee Council, "Regional Workshop on Internal Displacement in the South Caucasus (Armenia, Azerbaijan, Georgia) May 10-12 2000. Summary Report," June 2000.
- <sup>215</sup> *Profiles in Displacement: Georgia*, para. 69. See also Recommendation (iv).
- <sup>216</sup> Council of Europe, Parliamentary Assembly, *Recommendation 1570 (2002). Situation of Refugees and Displaced Persons in Armenia, Azerbaijan and Georgia*, adopted 27 June 2002, para.9(v)(a).
- <sup>217</sup> Letter of Roberta Cohen, Co-Director of the Brookings-CUNY Project on Internal Displacement to the UN Human Rights Committee, October 2001; Letter of Erin Mooney, Deputy Director, Brookings-CUNY Project to the UN Human Rights Committee, 15 March 2002.
- <sup>218</sup> UN Human Rights Committee, *List of Issues to be taken up in connection with the consideration of the second periodic report of Georgia, adopted by the Human Rights Committee on 12 October 2001*, (UN Doc. CCPR/C/74/L/GEO), 25 October 2001, para. 23.
- <sup>219</sup> "Human Rights Committee Takes Up Second Report of Georgia; Experts Praise Reforms, Question Reports of Torture," Seventy-fourth session, 18 March 2002, 1986<sup>th</sup> Meeting, UN Press Release, 18 March 2002.
- <sup>220</sup> Statements by Ms. Rusudan Beridze, Deputy Secretary, Human Rights Issues, National Security Council, Government of Georgia, on 18 and 19 March 2002 to the UN Human Rights Committee at its seventy-fourth session.
- <sup>221</sup> Statement by the Minister for Special Affairs of Georgia, Mr. Malkhaz Kakabadze to the Commission on Human Rights, 28 March 2002.

<sup>222</sup> *The Organic Law of Georgia. Unified Election Code of Georgia (as amended 14 August 2003)*. Unofficial translation prepared by IFES and the OSCE (September 2003).

<sup>223</sup> See Cohen, Kalin and Mooney, pp. 84-85, 158, 168.

<sup>224</sup> UNDP, *Study on IDP Rights* (Tbilisi: UNDP, 2003), p. 10.

<sup>225</sup> *Ibid.*, p. 30.

<sup>226</sup> Article 127 of the Organic Law of Georgia Unified Election Code of Georgia.

<sup>227</sup> *The Organic Law of Georgia. Unified Election Code of Georgia (as amended 14 August 2003)*. Unofficial translation prepared by IFES and the OSCE, September 2003.

<sup>228</sup> *Ibid.*, Articles 80, 92 and 110. Indeed, publicly it was announced that IDPs could for the first time exercise their rights to passive votes, i.e., the right of a citizen to be elected to Parliament or local government representing the area where they reside while displaced. UN Office for the Coordination of Humanitarian Affairs, *IDP Bulletin*, Issue 5 December 2003, p. 9.

<sup>229</sup> OSCE/ODIHR, *Georgia – Parliamentary Elections 2 November 2003, OSCE-ODIHR Election Observation Mission Report, Part 1*, 28 January 2004, p. 6.

<sup>230</sup> UNDP, *Study on IDP Rights* (Tbilisi: UNDP, 2003), p. 30.

<sup>231</sup> UN Office for the Coordination of Humanitarian Affairs, *IDP Bulletin*, Issue 5 December 2003, p. 9; IFES Ltd., *Fact Sheet: Georgia*, 16 December 2003.

<sup>232</sup> *Voting Rights. A Guide to IDP Voting Rights and How to Cast your Vote in the Parliamentary Elections* (Tbilisi: Norwegian Refugee Council, 2003) [English translation].

<sup>233</sup> *Ibid.*, p. 3.

<sup>234</sup> International Election Observation Mission, *Parliamentary Elections, Georgia – 2 November 2003, Statement of Preliminary Findings and Conclusions*, 3 November 2003, p. 2.

<sup>235</sup> *Ibid.*, pp. 1-2. See also OSCE/ODIHR, “Georgian Parliamentary Elections Marred by Confusion over Voter Lists,” Press Release, 3 November 2003.

<sup>236</sup> OSCE, *Georgia – Parliamentary Elections 2 November 2003, OSCE-ODIHR Election Observation Mission Report, Part 1*, 28 January 2004, p. 10.

<sup>237</sup> *Ibid.*, pp.1-2.

<sup>238</sup> *Ibid.*, p. 2.

<sup>239</sup> Email correspondence with Georgian Young Lawyers’ Association, October 2004.

<sup>240</sup> Specifically, the districts of Bolnisi and Chiatura, where there is no significant IDP population.

<sup>241</sup> OSCE/ODIHR, *Georgia: Partial Repeat Parliamentary Elections, 28 March 2004, OSCE/ODHIR Election Observation Mission Report, Part 2* Warsaw, 23 June 2004, p. 4.

<sup>242</sup> *Ibid.*, p. 12.

<sup>243</sup> Business Consulting Group (BCG) Research, *Internally Displaced Persons and Their Behavior During the Elections* (May 2004), p. 4. In addition to BCG, the consortium of Georgian organizations undertaking this survey comprised the Institute for Polling and Marketing, the NGO “Sociological Research Center” and the Department of Philosophy and Social Science at the University for Language and Culture.

<sup>244</sup> *Ibid.*

<sup>245</sup> Email correspondence with NRC-Georgia, 13 October 2004.

<sup>246</sup> Bagshaw, *Internally Displaced Persons and Political Participation: The OSCE Region*, p. 18.

### **Former Yugoslav Republic of Macedonia**

<sup>247</sup> Hereinafter referred to as Macedonia.

<sup>248</sup> NRC Global IDP Project, “Macedonia: Fear Prevents Remaining IDPs from Returning Home,” 26 February 2004 (figures as of January 2004).

<sup>249</sup> *Ibid.*

<sup>250</sup> OSCE/ODHIR, *Comments on the Draft Law for the Election of Members of Parliament, Former Yugoslav Republic of Macedonia*, 2001, p. 3.

<sup>251</sup> *Ibid.*

<sup>252</sup> OSCE/ODHIR, *Final Report on the Parliamentary Elections in the Former Yugoslav Republic of Macedonia, 18 October and 1 November 1998*, 1 December 1998, p. 11. The problem also had been observed in the 1999 Presidential Election. See OSCE/ODIHR, *Former Yugoslav Republic of Macedonia, Presidential Elections, 31 October, 14 November 1999, Final Report*, 31 January 2000, p. 6.

<sup>253</sup> Ohrid Framework Agreement, 6.6.

<sup>254</sup> OSCE/ODHIR, *Comments on the Draft Law for the Election of Members of Parliament*, p. 9.

<sup>255</sup> OSCE/ODHIR, *Final Report on the Parliamentary Elections in the Former Yugoslav Republic of Macedonia, 18 October and 1 November 1998*, p. 8.

<sup>256</sup> OSCE/ODIHR, *Former Yugoslav Republic of Macedonia, Presidential Elections, 31 October, 14 November 1999, Final Report*, p. 7.

<sup>257</sup> OSCE/ODIHR, *Comments and Recommendations for Implementation of the Parliamentary Election Law: Former Yugoslav Republic of Macedonia, Parliamentary Elections 15 September 2002*, p. 16.

<sup>258</sup> Law on Voters’ List, *Official Gazette* No. 42/2002, 25 June 2002. IFES unofficial translation.

<sup>259</sup> OSCE/ODIHR, *Final Report, Parliamentary Elections, 15 September 2002, Former Yugoslav Republic of Macedonia*, 20 November 2002, p. 7.

<sup>260</sup> *Ibid.*, p. 7.

<sup>261</sup> OSCE/ODIHR, *Comments and Recommendations for Implementation of the Parliamentary Election Law*, p. 16.

<sup>262</sup> OSCE/ODIHR, *Final Report, Parliamentary Elections, 15 September 2002*, pp. 1-2.

<sup>263</sup> *Ibid.*

<sup>264</sup> IRI, *Republic of Macedonia, Parliamentary Election, September 15, 2002, Election Observation Mission Report and Recommendations*, 2002, p. 27.

<sup>265</sup> According to the OSCE, the Election Law does not specify in which circumstances re-runs are to be held, and it is therefore up to SEC members to agree on this. OSCE/ODIHR, *Final Report, Parliamentary Elections, 15 September 2002*, p. 16.

<sup>266</sup> *Ibid.*, p. 16.

<sup>267</sup> OSCE/ODIHR, *Former Yugoslav Republic of Macedonia, Presidential election, 18 April 2004, Statement of Preliminary Findings and Conclusions*, 15 April 2004, p. 1.

<sup>268</sup> OSCE/ODIHR, *Former Yugoslav Republic of Macedonia, Presidential election – Second Round, 28 April 2004, Statement of Preliminary Findings and Conclusions*, 29 April 2004, p. 1.

<sup>269</sup> OSCE/ODIHR, *Former Yugoslav Republic of Macedonia, Presidential election*, 18 April 2004, p. 9.

<sup>270</sup> *Ibid.*

<sup>271</sup> *Ibid.*

<sup>272</sup> OSCE/ODIHR, *Former Yugoslav Republic of Macedonia, Presidential election – Second Round, 28 April 2004*, p. 2.

<sup>273</sup> OSCE/ODIHR, *Former Yugoslav Republic of Macedonia, 7 November 2004 Referendum, Report of the OSCE/ODIHR Expert Visit, 13-16 September 2004*, 28 September 2004, p. 1.

<sup>274</sup> *Ibid.*

<sup>275</sup> OSCE/ODIHR, *Former Yugoslav Republic of Macedonia, Municipal Elections 17 October 2004, OSCE/ODIHR Needs Assessment Mission Report, 30 June – 3 July 2004*, 20 July 2004, p. 4.

### **Moldova**

<sup>276</sup> NRC Global IDP Project, *Republic of Moldova: Uncertainty about the Integration of Displaced from the Transdnestrian Region*, March 2004, p. 2.

<sup>277</sup> This figure includes soldiers who were involved in the conflict, those displaced from the Transdnestrian region for political reasons, and families whose houses had been destroyed.

<sup>278</sup> Parliamentary Assembly of the Council of Europe, *The Situation of Refugees and Displaced Persons in the Russian Federation and some other CIS Countries*, Doc. 10118, 25 March 2004, p. 9.

<sup>279</sup> Obstacles to durable return cited by the NRC Global IDP Project include the reallocation of properties to newly arrived Russian citizens, the absence of amnesty for those involved in the 1992 conflict on the side of the Moldovan forces, the reluctance by Transdnestrian authorities to respect the right to education for the ethnic Moldovan population, restricted opportunities for political opposition, lack of employment opportunities, and compulsory military service.

<sup>280</sup> See <http://www.electionworld.org/moldova.htm>

<sup>281</sup> OSCE/ODIHR, “Preliminary Statement, Presidential Elections, 17 November 1996, Republic of Moldova,” 18 November 1996, p. 1.

<sup>282</sup> OSCE/ODIHR, *Final Report, Presidential Elections, 17 November and December 1 1996, Republic of Moldova*, p. 2.

<sup>283</sup> *Ibid.*

<sup>284</sup> OSCE/ODIHR, *Final Report, Presidential Elections*, p. 8.

<sup>285</sup> OSCE/ODIHR, "Preliminary Statement, Parliamentary Elections, 22 March 1998, Republic of Moldova," 23 March 1998, p. 3.

<sup>286</sup> OSCE/ODIHR, *Final Report, Parliamentary Elections, 22 March 1998, Republic of Moldova*, p. 8.

<sup>287</sup> *Ibid.*, p. 12.

<sup>288</sup> OSCE/ODIHR, *Final Report, Parliamentary Elections, 25 February 2001, Republic of Moldova*, p. 11.

<sup>289</sup> OSCE/ODIHR, *Needs Assessment Mission Report, Local Elections, 25 May 2003, Republic of Moldova*, 17-20 March 2003, p. 6.

<sup>290</sup> *Ibid.*

<sup>291</sup> OSCE/ODIHR, "Statement of Preliminary Findings and Conclusions, Local Elections, 25 May 2003, Republic of Moldova," 26 May 2003, p. 4.

### **Russian Federation**

<sup>292</sup> *Profiles in Displacement: the Russian Federation*, Report of the Representative of the Secretary-General on Internally Displaced Persons to the Commission on Human Rights (UN Doc. E/CN.4/2004/77/Add.2), 24 February 2004, pp. 8-9.

<sup>293</sup> According to Russian law, a "forced migrant" is a Russian citizen who was forced to flee from his permanent residence out of fear of violence or persecution. Since a "forced migrant" has to have crossed from one territory within the Russian Federation to another, the term would not encompass Chechens displaced within Chechnya. While Russian law does not recognize the term "internally displaced person," it is used here to denote anyone who was forced to flee the Chechnya conflict. IOM/Participatory Elections Project (PEP), "Case: Russia/Chechnya," pp. 1-2.

<sup>294</sup> *The Coerced Return of Chechen IDPs from Ingushetia*, International Helsinki Federation for Human Rights, March 2004.

<sup>295</sup> See Human Rights Watch Briefing Paper to the 60<sup>th</sup> Session of the UN Commission on Human Rights on the Human Rights Situation in Chechnya, January 2004.

<sup>296</sup> IOM/PEP, *Case: Russia/Chechnya*, p. 5. Available at: <http://www.iom.int/pep/>

<sup>297</sup> Simon Bagshaw, *Internally Displaced Persons and Political Participation: The OSCE Region*, Occasional Paper, The Brookings Institution Project on Internal Displacement, September 2000, pp. 16-17.

<sup>298</sup> *Ibid.*, p. 17.

<sup>299</sup> Figures of the Chechen Electoral Commission, cited in OCHA, *Humanitarian action in the North Caucasus Information Bulletin*, 16-31 March 2003.

<sup>300</sup> Human Rights Watch Briefing Paper to the 59<sup>th</sup> Session of the UN Commission on Human Rights on the Human Rights Situation in Chechnya, 7 April 2003.

<sup>301</sup> The poll was taken by Memorial, an independent Russian human rights monitoring organization, between 22 February and 14 March 2003. *Prague Watchdog*, "Memorial's poll shows only 12% of Chechens had intended taking part in the referendum," 27 March 2003.

- <sup>302</sup> *Prague Watchdog*, “Human rights defenders cast doubt on referendum results,” 24 March 2003.
- <sup>303</sup> Report by the Commissioner for Human Rights, Mr. Alvaro Gil-Robles on his Visit to the Russian Federation (Chechnya and Ingushetia), Strasbourg, France, 4 March 2003, BcommDH(2003) 5.
- <sup>304</sup> See, for example, “Voting in Ingushetia During Chechen Referendum Ruled Out,” RFE/RL, 25 Feb. 2003.
- <sup>305</sup> *Prague Watchdog*, “Marketplaces in Ingushetia are ‘closed for cleaning’,” 23 March 2003.
- <sup>306</sup> *Prague Watchdog*, “Human rights defenders cast doubt on referendum results,” 24 March 2003.
- <sup>307</sup> *Agence France-Presse*, “Chechens still wary as Kremlin’s man wins landslide victory,” 6 October 2003.
- <sup>308</sup> *Ibid.*
- <sup>309</sup> *Moscow Times*, “Refugees to vote in Chechen election by referendum voting rules,” TASS, 5 Sept. 2003. “Chechen Refugees May Vote, Says Sultygov,” 11 Sept. 2003.
- <sup>310</sup> *Prague Watchdog*, “Authorities plan to dismantle tent camps in Ingushetia by October,” 30 July 2003; *New threat to Chechen refugees. Tension is growing again amongst displaced Chechens in Ingushetia*, Institute for War & Peace Reporting, 31 July 2003; *Ingushetia must remain safe haven for displaced Chechens*, Amnesty International, 22 August 2003.
- <sup>311</sup> Some of the Bella Camp families were relocated to another UNHCR tent camp, Satisa; others, who were forced to leave Bella before September, may have had no choice but to return to Chechnya. “Refugee camp Bella dismantled,” *Prague Watchdog*, 1 October 2003; “Closure of camps and expulsions in Ingushetia: All refugees must have the possibility of relocating to Ingushetia,” Medecins Sans Frontieres, 3 October 2003.
- <sup>312</sup> *Agence France-Presse*, “20,000 refugees refusing to return to Chechnya: officials,” 1 September 2003.
- <sup>313</sup> *Caucasus Times*, 16 Sept. 2003.
- <sup>314</sup> OSCE/ODIHR, *Russian Federation: Election to the State Duma, 7 December 2003, Final Report*, 27 January 2004, p. 1.
- <sup>315</sup> *Ibid.*, pp. 23-24.
- <sup>316</sup> *Ibid.*, p. 10.
- <sup>317</sup> *Ibid.*, p. 6. Half of all parliamentary seats in Russia are elected from single-mandate district constituencies on the basis of one-round, first-past-the-post contests. The remaining seats are allocated proportionally to block/party lists that gain more than five percent in the federal ballot. p. 3.
- <sup>318</sup> *Ibid.*, p. 27.
- <sup>319</sup> *Ibid.*, p. 10.
- <sup>320</sup> *Ibid.*, p. 10.
- <sup>321</sup> OSCE/ODIHR, *Russian Federation, Presidential Election, 14 March 2004, Election Observation Mission Report*, 2 June 2004, p. 1.
- <sup>322</sup> *Prague Watchdog*, “High Voter Turnout in Chechen Republic Achieved by Added Ballots,” 14 March 2004.

<sup>323</sup> OSCE/ODIHR, *Russian Federation, Presidential Election, 14 March 2004*, p. 8.

<sup>324</sup> *Ibid.*, p. 30.

<sup>325</sup> Parliamentary Assembly of the Council of Europe, “The Situation of Refugees and Displaced Persons in the Russian Federation and some other CIS Countries,” Doc. 10118, 25 March 2004.

### **Serbia and Montenegro (Including Kosovo)**

<sup>326</sup> NRC Global IDP Project, *Serbia and Montenegro: As Prospects for Return to Kosovo Remain Slim, Authorities Must Increase Assistance to the Displaced*, 11 March 2004, p. 2.

<sup>327</sup> ICG, *Collapse in Kosovo*, Europe Report No. 155, 22 April 2004, p. i.

<sup>328</sup> Figures as of January 2004. NRC Global IDP Project, “*Serbia and Montenegro: As Prospects for Return to Kosovo Remain Slim*,” p. 2.

<sup>329</sup> *Ibid.*, p. 4.

<sup>330</sup> *Ibid.*

<sup>331</sup> *Ibid.*

<sup>332</sup> OSCE/ODIHR, *Elections in the Federal Republic of Yugoslavia, 24 September 2000, Preliminary Findings and Conclusions*, 25 September 2000, p. 1.

<sup>333</sup> *Ibid.*, p. 6.

<sup>334</sup> Human Rights Watch, “Serbia: Elections Unlikely to Be Free or Fair,” Human Rights Watch Press Backgrounder.

<sup>335</sup> *Ibid.*

<sup>336</sup> OSCE/ODIHR, *Republic of Serbia, Federal Republic of Yugoslavia, Parliamentary Election, 23 December 2000, Final Report*, 20 February 2001, p. 1.

<sup>337</sup> *Ibid.*, p. 9, footnote 20.

<sup>338</sup> *Ibid.*, p. 5.

<sup>339</sup> *Ibid.*, p. 7.

<sup>340</sup> *Ibid.*, p. 17.

<sup>341</sup> OSCE/ODIHR, *Republic of Serbia (Federal Republic of Yugoslavia), Presidential Elections, 29 September and 13 October 2002, and Repeat Presidential Election, 8 December 2002, Final Report*, 18 February 2003, p. 1.

<sup>342</sup> *Ibid.*, p. 6-7. According to the OSCE, disenfranchising such significant numbers of potential voters also contributed to the failure of these elections by further reducing electoral turnout.

<sup>343</sup> *Ibid.*, p. 12.

<sup>344</sup> *Ibid.*, p. 22.

<sup>345</sup> *Ibid.*, p. 10.

<sup>346</sup> *Ibid.*, pp. 18 and 23.

<sup>347</sup> OSCE/ODIHR, *Republic of Serbia (Serbia and Montenegro), Presidential Election, 16 November 2003, OSCE/ODIHR Election Observation Mission Report*, 18 December 2003, pp. 4, 14-15.

<sup>348</sup> Centre for Free Election and Democracy, “*Announcement of The Presidential Elections*,” 2003.

<sup>349</sup> OSCE/ODIHR, *Republic of Serbia (Serbia and Montenegro), Parliamentary Elections, 28 December 2003, OSCE/ODIHR Election Observation Mission Final Report*, 27 February 2003, p. 1.

<sup>350</sup> *Ibid.*, pp. 6 and 18.

<sup>351</sup> *Ibid.*, p. 19.

<sup>352</sup> *Ibid.*, p. 12.

<sup>353</sup> OSCE/ODIHR, *Republic of Serbia, Serbia and Montenegro, Presidential Election 13 and 27 June 2004, OSCE/ODIHR Election Observation Mission Report*, 22 September 2004, p. 2.

<sup>354</sup> *Ibid.*, pp. 5-6.

<sup>355</sup> *Ibid.*, p. 18.

<sup>356</sup> *Ibid.*, p. 11.

<sup>357</sup> *Ibid.*, p. 19.

<sup>358</sup> OSCE/ODIHR, *Montenegro: Early Municipal Elections (Podgorica and Herceg Novi), 11 June 2000, Final Report*, 18 August 2000, p. 1.

<sup>359</sup> *Ibid.*, p. 3.

<sup>360</sup> *Ibid.*, p. 5.

<sup>361</sup> *Ibid.*, p. 16.

<sup>362</sup> OSCE/ODIHR, *Republic of Montenegro, Federal Republic of Yugoslavia, Parliamentary Election 22 April 2001, OSCE/ODIHR Election Observation Mission Report*, 12 June 2001, p. 6.

<sup>363</sup> *Ibid.*, pp. 7-8.

<sup>364</sup> OSCE/ODIHR, *Republic of Montenegro, Federal Republic of Yugoslavia, Municipal Elections, 15 May 2002, OSCE/ODIHR Election Observation Mission Report*, 21 June 2002, pp. 1 and 10.

<sup>365</sup> OSCE/ODIHR, *Republic of Montenegro, Federal Republic of Yugoslavia, Early Parliamentary Elections, 20 October 2002, OSCE/ODIHR Election Observation Mission Report*, 28 November 2002, p. 9.

<sup>366</sup> *Ibid.*, p. 9.

<sup>367</sup> OSCE/ODIHR, *Republic of Montenegro (Serbia and Montenegro), Presidential Elections, 22 December 2002 and 9 February 2003, OSCE/ODIHR Election Observation Mission Report*, 3 April 2003, p. 5.

<sup>368</sup> OSCE/ODIHR, *Republic of Montenegro (Serbia and Montenegro), Presidential Election, 11 May 2003, OSCE/ODIHR Election Observation Mission Report*, 28 July 2003, p. 1.

<sup>369</sup> *Ibid.*, p. 1.

<sup>370</sup> *Ibid.*, p. 10.

<sup>371</sup> *Ibid.*, p. 5.

<sup>372</sup> IOM/Participatory Elections Project (PEP), *Case Studies on the Participation of Conflict Forced Migrants in Elections, Case VII: Kosovo, 2000 Municipal Assembly Elections*, Desk Research Package: Backgrounder, May 2003, p. 100.

<sup>373</sup> Council of Europe, “*Municipal Elections in Kosovo – 28 October 2000*,” Observations of the Congress of Local and Regional Authorities of Europe, Document CG/Bur (7) 63, 15 December 2000, paragraph 38.

<sup>374</sup> *Ibid.*, paragraph 10.

<sup>375</sup> International Helsinki Foundation for Human Rights, *Report on the Municipal Elections of 28 October in Kosovo*, International Helsinki Foundation for Human Rights Mission to Kosovo, 24-30 October 2000, p. 1.

<sup>376</sup> This provision has drawn some criticism for helping to solidify the results of ethnic cleansing by allowing IDPs to vote in their places of displacement. It was claimed that IDPs might be open to pressure for registering in their temporary residence. In addition, the 1 January 1998 cut-off date meant that those persons displaced previously could not vote. In political terms, this was reportedly perceived as a significant injustice by Albanian voters and proved controversial. IOM/PEP, *Case Studies on the Participation of Conflict Forced Migrants in Elections, Case VII: Kosovo, 2000 Municipal Assembly Elections*, Desk Research Package: Backgrounder, May 2003, pp. 96-98.

<sup>377</sup> International Crisis Group, “*Kosovo: Landmark Elections*,” Balkans Report No. 120, 21 November 2001, p. i.

<sup>378</sup> Council of Europe, “*Kosovo Assembly Elections Bring Democracy Forward and Strengthen Regional Stability*,” 18 November 2001, Document 867a (2001).

<sup>379</sup> UN Security Council, *Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo*, S/2001/926, 2 October 2001, Section D. Preparations for Kosovo-Wide Elections.

<sup>380</sup> UNHCR/OSCE, *Assessment of the Situation of Ethnic Minorities in Kosovo (Period Covering March 2001 Through August 2001)*, p. 16.

<sup>381</sup> OSCE Mission in Kosovo, *Kosovo’s Central Election Commission Approves Final Election Results*, 26 November 2001.

<sup>382</sup> Council of Europe, *Election Observation Mission for the 2002 Kosovo Municipal Elections, Final Report*, Information Document SG/Inf(2002)49, November 2002.

<sup>383</sup> UNOCHA, “*October 2002 Municipal Election in Kosovo*,” 30 October 2002.

<sup>384</sup> OSCE Press Release, “OSCE Mission in Kosovo Begins ‘By-Mail’ Operation for Out-Of-Kosovo Voters,” Pristina, 17 June 2004.

## **Turkey**

<sup>385</sup> NRC Global IDP Project, “Turkey Profile Summary,” 5 April 2004.

<sup>386</sup> There are 12-16 million Kurds in Turkey, about one-fifth of the total population of 70 million.

<sup>387</sup> Others have been displaced by natural disasters, in particular the Marmara earthquakes which displaced 600,000 in northwest Turkey in August 1999. In addition, displacement has also been caused by large-scale development projects. See *Profiles in Displacement: Turkey*, Report of the Representative of the Secretary General on Internally Displaced Persons (UN Doc. E/CN.4/2003/86/Add.2), 27 November 2002.

<sup>388</sup> NRC Global IDP Project, "Turkey Profile Summary," 5 April 2004. See also *ibid.*

<sup>389</sup> *Ibid.*

<sup>390</sup> Human Rights Watch, "Last Chance for Turkey's Displaced," Human Rights Watch Briefing Paper, 4 October 2004.

<sup>391</sup> "Kurdish rebels abandon truce," *BBC News*, 2 Sept 2003.

<sup>392</sup> OSCE/ODIHR, *Assessment Report: Republic of Turkey, Parliamentary Elections, 3 November 2002*, 4 December 2002, pp. 1-2.

<sup>393</sup> *Ibid.*, p. 14.

<sup>394</sup> *Ibid.*, p. 4.

<sup>395</sup> *Ibid.*, p. 14.

<sup>396</sup> *Ibid.*, p. 7.

<sup>397</sup> *Ibid.*, p. 11.

<sup>398</sup> *Ibid.*, p. 11.

<sup>399</sup> *Ibid.*, p. 14.

<sup>400</sup> *Ibid.*, Art. 58, p. 7.

<sup>401</sup> *Ibid.*, p. 8.

<sup>402</sup> Email correspondence with Washington Kurdish Institute, 27 October 2004.

<sup>403</sup> OSCE/ODIHR, *Assessment Report: Republic of Turkey, Parliamentary Elections, 3 November 2002*, 4 December 2002, p. 7.

<sup>404</sup> Penal Code, Art. 159, cited in *ibid.*, p. 7.

<sup>405</sup> Penal Code, Arts. 7 and 8, cited in *ibid.*, p. 7.

<sup>406</sup> Penal Code, Art. 169, in *ibid.*, p. 7.

<sup>407</sup> FDIH, "The FDIH concerned at climate after local elections in the South East," 2 April 2004.

<sup>408</sup> US Department of State, *Country Reports on Human Rights Practices 2003 - Turkey*, 25 February 2004, Section 3.

<sup>409</sup> OSCE/ODIHR, *Assessment Report: Republic of Turkey, Parliamentary Elections, 3 November 2002*, 4 December 2002, p. 2.

## **Turkmenistan**

<sup>410</sup> Norwegian Refugee Council, *Protecting Internally Displaced Persons in the OSCE Area: A Neglected Commitment*, October 2003, p.33.

<sup>411</sup> The Democratic Party of Turkmenistan is the sole legally recognized party in the country.

<sup>412</sup> Although there is an age-limit placed on the office of president which would mean that Niyazov should relinquish his post in 2010, it is unclear whether this will actually occur.

## **Uzbekistan**

<sup>413</sup> Norwegian Refugee Council, *Protecting Internally Displaced Persons in the OSCE Area: A Neglected Commitment*, October 2003, p.34.

<sup>414</sup> *Ibid.*

<sup>415</sup> Parliamentary Elections of December 5 and 19, 1999.

<sup>416</sup> "Slim Prospects of Fair Parliamentary Elections in Uzbekistan," Human Rights Watch, October 18, 2004.

<sup>417</sup> OSCE/ODIHR, *Needs Assessment Mission report ahead of the Legislative Chamber elections in the Republic of Uzbekistan on 26 December 2004*, 13 October 2004, p.1.

<sup>418</sup> A Limited Election Observation Mission was sent to observe the Parliamentary Elections of 1999.

## **APPENDIX A**

### **Upcoming Elections in OSCE Countries with IDPs <sup>1</sup>**

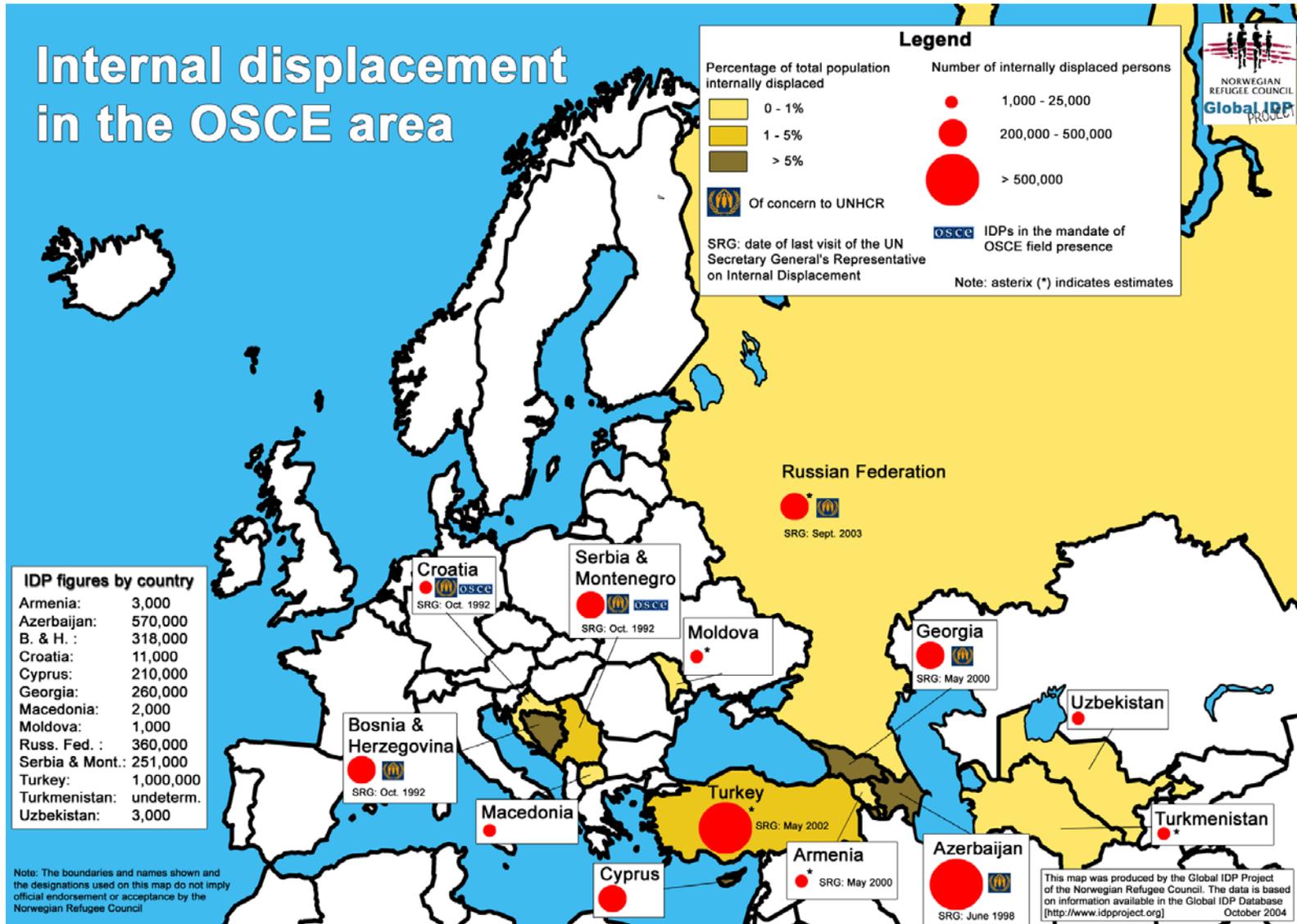
<b>Former Yugoslav Republic of Macedonia</b> <i>Referendum</i>	<b>7 November 2004</b>
<b>Azerbaijan</b> <i>Municipal Elections</i>	<b>17 December 2004</b>
<b>Croatia</b> <i>Presidential Elections</i>	<b>19 December 2004<sup>2</sup></b>
<b>Uzbekistan</b> <i>Parliamentary Elections</i>	<b>26 December 2004</b>

<sup>1</sup>Based on OSCE Elections Calendar: “Indicative Elections Calendar in the OSCE Region 2004,” see <http://www.osce.org/odihr>

<sup>2</sup>To be confirmed.

# APPENDIX B

## Internal Displacement in the OSCE Area: Numbers and Percentages<sup>1</sup>



<sup>1</sup>Map created and provided by Norwegian Refugee Council Global IDP Project. Figures as of October 2004.