

Foreign Experience of Housing Solutions and Compensation for Destroyed/Damaged Housing for IDPs

by Housing, Land and Property Rights Technical Working Group, May 2017

Purpose: To analyse the general context for housing solutions and compensation in other contexts in order to make relevant recommendations for Ukraine on the ways ahead of policy formation, formation of compensation, restitution and compensation claims, development of housing programs. Through looking at the case studies of Armenia, Azerbaijan, Bosnia&Herzegovina, Colombia, Cyprus, Georgia, Molodva and Serbia, the Housing, Land, and Property Technical Working Group found the following general trends that Ukraine should take into consideration:

CONCLUSIONS

1. The process of restoration of the victims' rights evolves over certain stages: restitution and then compensations. This approach allows inclusion of all people affected by the conflict regardless of their qualifications according to domestic law: IDPs, CAPs, returnees, residuals etc. In conflict settings, securing compensation is complicated while the conflict is ongoing or in the absence of a peace agreement.
2. For conflict settings, many positive initiatives were donor led or supported including donor funding compensation funds. Therefore, there is a need to inform donors about their role in supporting the combination of housing and access to justice issues for the recovery period.
3. Geography is important to ensure access to justice. Several countries who were the most successful in managing their disaster-affected housing had well developed cadastres and land assessments which were crucial pieces of evidence during their claims commissions. For Ukraine, this requires support to work on the country's cadastre system, which was not so well developed prior to the crisis. Many of the country contexts had housing stock, which was badly in need of repair prior to the crisis. Well informed geographical and infrastructure systems can include this housing stock in housing programs while also stimulating livelihoods such as in the construction sector.
4. Claims Commissions, which are usually a mixture of administrative and quasi-judicial bodies of state power plays a key role in adequate response to housing solutions to people affected by conflict.
5. Durable housing solutions as the rule imply not only housing legislature, but also land tenure, infrastructure solutions as the part of the approach. In many cases, housing programs were decentralised and relying on the support of the local municipalities Those countries and locations that struggled the most were the ones who did not have a broader housing policy framework. Ukraine has the similar challenges and recovery programs should ensure that there is a government policy supporting certain reforms in the housing sector to make compensation, social housing, and adequate heating functional.
6. Selection criteria of housing provision at the local level. In many cases, housing programs were decentralised and relying on the support of the local municipalities. Selection of beneficiaries was done based on a scoring system, which took into account mostly of housing needs and social status of the persons. Local authorities didn't actually acquire property, but where possible they conducted checks on the actual needs of the beneficiaries of social housing (i.e. cross checks on repossessed property) in order to avoid abuse by potential beneficiaries. Local authorities used direct contracts with the beneficiaries of social housing to prevent them from abusing the assistance they received (i.e. prohibition to sell the property, obligation to use occupy the property within a certain deadline). All these provisions were agreed upon by the beneficiary and the authorities through standard contacts.
7. The efficient measure is putting the burden of proving to the state (Claims Commissions). As foreign experience shows, usually 10% of victims receive state-financed solutions for their housing problems. Nevertheless, if the burden of proving goes to the state, it shortens the time of restitution/compensations to be received.
8. Condominium processes are important and can be a source of community ownership of the challenge, but often they can be difficult for local populations to understand, thus programs should be inclusive, flexible, and correspond with contextual incentives to participate in these community groups.

What follows are the details of each country case study:

ARMENIA

**General context
on Housing
Solutions and
Compensation for
Destroyed/Damaged
Housing for
IDPs in the
country**

96% of Armenia's housing stock is privatized and in poor condition after rapid privatization: multi-story apartments are largely in hands of private families; .06% is state-owned, .01% is owned by private enterprises, and 3.3% are owned by local authorities- very similar situation to Ukraine.

Displacement in Armenia was caused by two major crises: earthquake in 1988 and military conflict with Azerbaijan (Nagorny Karabakh) in early 1990s.

There is a decision on compensation, but as this is a long-term frozen conflict, mechanisms of compensation are not yet implemented. Displacement was incremental. Housing vouchers in earthquake zone were issued.

10 years after crisis: Urban and rural housing improvement grants: in urban areas for those remaining in buildings not officially condemned but those not on any housing waiting lists and in rural areas to assist in abandoned constructions.

Law on Condominiums and Law on Multi-unit building management were adopted.

Purchase of buildings from private sector by government takes place.

Urban institute support in formation of condominium associations to register communal areas (connected with urban and rural improvement grants)

GOOD POINTS

- Housing voucher program although originally donor led (USAID and Urban Institute) was able to be successfully replicated by the government
- Housing vouchers also enabled the government over the 10 years after disaster and refugee crisis to provide housing to the most needy displaced by enabling recovery of underused housing stock
- Well functioning cadaster system
- Mechanism of certificates allowed the beneficiaries to choose where they live

Project triggered change in regulation in the Law of the Republic of Armenia on Building Management and practical decentralization and local governance

WHAT DID NOT WORK AND WHY

- Lack of policy to shift to address poor maintenance of residential housing stock pre-crisis and the remaining "unlivable" housing stock created by earthquake
- Beneficiaries of housing voucher certificates were not easily able to sell their homes later with the official permissions of the cadaster system, because they had modified their homes without proper legal permissions
- Lack of accurate housing price data
- Many beneficiaries had to have their passports changed from the Soviet to Armenian ones
- Social housing not favorably considered by beneficiaries

Restitution mechanisms haven't been introduced.

**Restitution
mechanisms**

Compensation mechanisms

The regulation of compensation process ongoing: Government did not finalize the compensation for conflict-related displacement.

GOOD POINTS

Earthquake compensation through the voucher certificate scheme worked quickly for initial case load and had continuity over 10 years by also tapping into construction industry and revitalization of housing stock.

WHAT DID NOT WORK AND WHY

Compensation for NKR conflict has yet to be implemented due to ongoing tensions between the 2 countries

Claims commissions

June 15 2015: Sargsyan v Azerbaijan and Chiragov and Others v Armenia, the ECtHR ruled that Armenia is directly responsible for deprivation of housing related with its activities in Nargono-Karabakh.

Armenia argued that NKR was an independent state, while Azerbaijan and its citizens tried to establish Armenia's responsibility for the territory- according to international recognition.

GOOD POINTS

In the Sargsyan case, much evidence using geography, photos was entered to establish location of defendant's home village including whether it was on the Line of Contact.

Cited legislation from Turkey and Cyprus where the ECHR allowed for ownership to be established prima facie due to the circumstances in which the displaced were forced to leave their premises

WHAT DID NOT WORK AND WHY

Conflict between Armenia and Azerbaijan began prior to privatization and during Soviet times: Azerbaijan as third party intervener refuted Armenia's rejection of lack of proof of ownership, because the conflict began under Soviet legislation- Court ultimately determined that NKR was not internationally recognized and that Armenia's privatization process could not be considered to impact these citizens' loss of their property- Situation not relevant Ukraine as non-ethnic conflict

Security of Tenure in Housing Provisions Selection of beneficiaries

Emphasized private ownership but government also intervened to purchase private property and transfer tenure to beneficiaries for state owned or locally owned properties

Aim is to assist 500,000 people who lost homes in Spitak earthquake and 360,000 ethnic Armenian refugees

Housing certificate program was based on a site-based approach (whether family was living in trailer, *domic*, or other temporary shelter)

Government strategy 2008-2012: earthquake displaced, refugee households, children without parental care, socially vulnerable new families, disabled or groups with partial mobility

WHAT DID NOT WORK AND WHY

Had the need to broaden to assist other groups for recovery as much of housing construction was abandoned after the earthquake

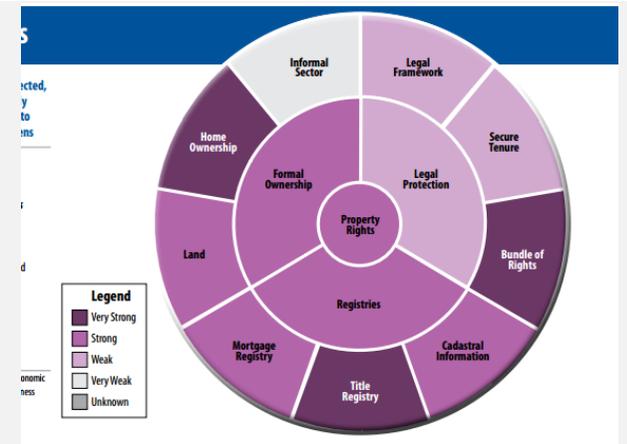
Corruption risks mitigation

Generally, corruption is a problem in Armenia. There is an element of corruption through public sector procurement.

WHAT DOES NOT WORK AND WHY

Private property is protected by the law, but the judiciary is slow and does not provide adequate protection for citizens and the judiciary is perceived as the second most corrupt institution by Armenian citizens.

http://www.cipe.org/sites/default/files/publication-docs/Report-Armenia_final.pdf



Legislative amendments adopted

Armenia Civil Code Jan 1, 1999 most important in creating conducive environment for the development of housing policies

Government action plan for 2008-2012 mentioned a number of housing projects: management and maintenance of multi-story buildings, upgrading of communal infrastructure, strengthen concept of social housing.

It should be underlined that Rental housing was not adequately addressed in the housing code

AZERBAIJAN

General context on Housing Solutions and Compensation for Destroyed/Damaged Housing for IDPs in the country /

Internal displacement in Azerbaijan is mainly a consequence of the country's conflict with Armenia over the territory of Nagorno-Karabakh, a mountainous and fertile autonomous region in western Azerbaijan. The roots of the dispute can be traced back to the early 20th century, but conflict broke out in 1988 when nationalist aspirations resurfaced in Nagorno-Karabakh and the Soviet government in Yerevan agreed to incorporate the territory into Armenia.

A ceasefire agreement officially brought hostilities to an end in 1994, since when Armenia has wholly or partially controlled Nagorno-Karabakh and seven surrounding districts. By the time of the ceasefire, an estimated 700,000 people had been displaced in Azerbaijan, and a further 30,000 people in Nagorno-Karabakh itself.

The conflict between Azerbaijan and Armenia is often described as frozen, but in reality it is active along the frontline.

From 2001 to 2015, as part of the State Programme for the Improvement of Living Standards and Generation of Employment for Refugees and IDPs, 82 temporary settlements with sociotechnical infrastructure were constructed, benefiting 40,000 families, i.e. 180,000 IDPs.

Great Return Programme announced by the Government in 2005 was to assert the principle of voluntary return in the context of an eventual settlement of the armed conflict in and around the Nagorno-Karabakh region.

Return program will be implemented after the signing of the agreement Great Peace. World Bank IDP Living Standards and Livelihoods Projects until 2020.

GOOD POINT was that those measures are no doubt welcome and have gone a long way to improve the well-being of IDPs.

WHAT DID NOT WORK AND WHY

Housing arrangements for IDPs in the new settlements are of a temporary nature and housing is provided on a free cost basis as IDPs are treated as "guests" pending implementation of the "Great Return" master plan.

The quality of some of the new housing is poor and repairs have been needed within months of completion. Access to water, transport, land and jobs is limited in some settlements, and IDPs said they had not been consulted or otherwise involved in the planning process, despite official claims to the contrary.

In an effort to maintain social cohesion, the new settlements also tend to be isolated from existing communities. The programme has therefore continued the collective accommodation of IDPs separate from the general population.

Restitution mechanisms

The Government of Azerbaijan has preconditioned assessment, planning and coordination of restitution programmes on a permanent settlement of the conflict with Armenia including the liberation of occupied territories and return of IDPs. As a result, no information exists nor has there been an attempt to establish the scale of land, housing and property to be restituted.

Compensation mechanisms

Issues of lost property and compensation will be dealt with after the peace agreement is signed.

Claims commissions

There is no available state capacity and resources to ensure a fair and expedient property restitution process. Regular courts do not have sufficient capacity to deal with additional caseload of restitution cases. The necessity to establish special property commissions that use streamlined administrative procedures to decide restitution claims expediently so as to provide redress quickly had been recognized but such governmental institutions had not been introduced.

GOOD POINTS

June 15 2015 Decision by ECtHR: Sargsyan v Azerbaijan and Chiragov and Others v Armenia. In both cases the applicants' complaints about the loss of their homes, land and property were upheld, with the Court finding continuing violations of their rights under Article 1 of Protocol No. 1 (the peaceful enjoyment of property), Article 8 (the right to respect for private and family life and home) and Article 13 (the right to an effective remedy). It was a central feature of both judgments that the Court made clear its view of the inadequacy of both states' stances towards the settlement negotiations. In both cases, the Court directed the Governments' attention towards international standards on property rights (notably the UN Pinheiro Principles), concluding: "...it would appear particularly important to establish a property claims mechanism, which should be easily accessible and provide procedures operating with

flexible evidentiary standards, allowing the applicant and others in his situation to have their property rights restored and to obtain compensation for the loss of their enjoyment.”(Sargsyan, para. 238, Chiragov, para. 199).

WHAT DID NOT WORK AND WHY

**Housing Provision
Procedure**

A dialogue must begin between Armenia and Azerbaijan, mediated by the Committee of Ministers. Armenia and Azerbaijan must consider how each of them is to restore property rights and create mechanisms to pay compensation in these two cases, and also the 1,000 outstanding cases.

However, it's obvious none of this is going to happen until the Karabakh issue is solved at the political level.

The State Programme for the Improvement of Living Standards and Generation of Employment for Refugees and IDPs .

GOOD POINTS

It relocated up to 180,000 IDPs and refugees to more than 80 purpose-built settlements, most of them with new schools and medical centres.

WHAT DID NOT WORK AND WHY

Some would have preferred to stay at their previous location with assistance to improve their housing, but this was not an option.

**Security of Tenure
in Housing
Provisions**

The 1991 Order on “Provision of Housing of Citizens who Forcibly Left Places of Permanent Residence (Refugees)”

Good point was that IDPs enjoy privileged housing

But along with that IDPs have no rights of ownership because return to their original homes or places of habitual residence is the durable solution predicated.

New housing is allocated on a temporary basis until IDPs are able to return, and they are not allowed to rent, sell or mortgage the property.

**Selection of
beneficiaries**

Great Return Programme: Returnees to the Nagorno-Karabakh region

GOOD POINTS

In the 2007 participatory assessment, the majority of IDPs expressed their conviction that they would be able to regain their property in occupied Nagorno-Karabakh and surrounding territories with the help of the Governments after a peaceful settlement of the conflict. IDPs stated that many of them have documentation, keys to houses and that archives exist, in which their former property is registered.

WHAT DID NOT WORK AND WHY

Due to the inaccessibility of the Nagorno-Karabakh region, an assessment of the situation concerning land, housing and property left behind by IDPs is not possible at this time, however it should be noted that reports indicate that there has been substantial destruction of private and public property.

**Corruption risks
mitigation**

Spending for the construction of new housing does not seem to have been monitored, and some IDPs said they had received lower quality housing than planned as a result

**Discrimination
mitigation
Legislative
amendments
adopted**

According to the given policy there is no opportunity of settlement elsewhere in the country as an option for those IDPs who may wish to choose those as durable solutions for themselves.

The 1991 Order on “Provision of Housing of Citizens who Forcibly Left Places of Permanent Residence (Refugees)”

BOSNIA and HERZEGOVINA

General context on Housing Solutions and Compensation for Destroyed/Damaged Housing for IDPs in the country /

It is important to point out that in Bosnia and Herzegovina the process of providing alternative housing in the initial phase was contextual to the property restitution process. Displacement in Bosnia was characterised by internal movements of population between one part of the country to another, where their ethnic group was the majority. During the conflict, IDPs and refugees in Bosnia had been allocated property which had been vacated (often forcibly) by other ethnic groups and they were granted temporary rights to live in those properties. When the peace agreement was signed and the property restitution process started delivering results, alternative housing became necessary on a temporary basis to vacate claimed properties, while at the same time mitigating the impact on the displaced population who had occupied those houses.

Restitution mechanisms

The process of property restitution was implemented by the different housing authorities, at the municipal level, in charge of the properties located on their territory. The difficulties associated with this approach were that the housing authorities having jurisdiction over a specific property had to evict the current occupants, often members of their own ethnic group, in favour of the owners of the property, who was very often a member of the rival ethnic group. More importantly, the persons who were entitled to receive alternative housing during the property restitution process were not the owners of those properties, but rather the temporary occupants of the properties under the threat of an eviction.

Compensation mechanisms

Compensation schemes didn't actually exist in Bosnia and Herzegovina: while the Dayton Peace Agreement envisaged the possibility for property to be compensated, donors were rather reluctant to contribute to the voluntary fund envisaged for compensation, which in the end was never operational. The focus was on the property restitution process, encompassing both private and socially owned property where physical persons were the pre-war owners or tenants. The actual solution of the property disputes nevertheless freed up properties, which could be reoccupied, sold or exchange, allowing thus a sort of compensation mechanism which was mostly determined by the market.

Housing Provision Procedure

Under the alternative housing programme the authorities of Bosnia and Herzegovina were providing housing in a number of different premises, including if necessary empty hotels, tourist villages, collective centres and similar premises. Most of these properties at the time were still state owned and therefore easily available to the authorities. In some cases, the housing authorities were even renting private space for such purpose. In other cases, for the purpose of facilitating the repossession of the houses, it was even the claimant of the property who could offer to pay alternative accommodation to the current occupant elsewhere (although this possibility wasn't applied extensively). In some cases, plots of land and construction material were provided as part of alternative housing. In more rare cases, new apartment blocks were built: these last two solutions were often discouraged by the international community because they risked delaying indefinitely the process of property restitution, which was facing numerous difficulties at the beginning. Alternative housing was also provided in houses reconstructed by the state or via international assistance. In case those houses were not occupied by the beneficiary of the reconstruction project within a certain deadline, the municipality could manage such reconstructed premises for a temporary period and allocate them on a temporary basis to families entitled to alternative accommodation. This possibility was foreseen by the so called tripartite agreement, signed by reconstruction agency, municipality and beneficiary of reconstruction, where the owner of the property would explicitly give his consent to allow the property to be used as alternative accommodation, should s/he fail to occupy it.

Security of Tenure in Housing Provisions

Under the alternative housing, no security of tenure was provided, given the temporary nature of the housing. However, there were no time limits for such tenure, nor the authorities were too eager in revising the entitlements to alternative accommodation. While it is not possible to conclude that the IDPs/refugees had any security of tenure, at the same time, checks on their entitlement or actions to remove them were very rare and the authorities were very cautious before removing them from alternative housing without find a solution for them. As a result a number of persons remained for many many years in alternative accommodation until programs like the Regional Housing Programme started to provide accommodation for those categories. Allocation of apartments as alternative accommodation were subject to a contract on use and often it was excluded the right to privatise such apartments. Allocation of construction material instead had a permanent character.

Selection of beneficiaries

Beneficiaries of housing in Bosnia and Herzegovina were IDPs and refugees from neighbouring countries.

Since the alternative housing programme was in support of property restitution, alternative housing was provided in such a way to respond to strict humanitarian needs and the provisions for alternative housing were aimed at reducing to the very minimum those who were entitled to it. With this goal in mind, a series of very strict criteria were introduced to determine the eligibility to alternative housing. Some of these criteria were:

- checks on financial income,
- checks on the availability of alternative housing,
- checks on the pre and post conflict household (i.e. with the purpose of avoiding splitting of families)
- checks on the availability of their original housing

Alternative housing itself was also limited to emergency housing, in reason of 5 square meters per person and it could be provided in collective accommodations like hotels, unused health institutes and so on. The same housing commissions, which decided upon the claim for repossession, decided also on the entitlement to alternative housing to the beneficiaries. It is important to recall that eventually Bosnian authorities had developed sufficient contacts between themselves to check whether a person eligible for alternative housing had reposessed their property in the municipality of origin.

Corruption risks mitigation

In Bosnia and Herzegovina the solution of claims was supposed to be in a chronological order, except for those claims, which could be solved immediately. Very often international NGOs were in charge of actually implementing reconstruction and at least the largest NGOs have accountability procedures in place to ensure limit the possibility of corruption.

Discrimination mitigation

No cases were reported.

COLOMBIA

General context on Housing Solutions and Compensation for Destroyed/Damaged Housing for IDPs in the country

Colombia has been in state of war for more than 50 years. The conflict affected mostly rural areas therefore the most acute HLP issue concern lands not housing.

6 years ago the Government passed the so-called “Victims law” – a comprehensive reparation law. One of the main remedy mechanisms is land restitution.

GOOD POINTS

The law **targets IDPs and all conflict affected population**. But most of the claimants are still IDPs.

Reasons why the Law was adopted: victims are organised and made pressure both in Colombia and abroad.

The law creates a **special body** responsible for this issue: **the Land Restitution Unit**: 1 HQ office in Bogota, 16 offices across the country. Size: one office has from 20 to 80 civil servants.

Funding of the Land Restitution Unit: first year funded by IOM, then – by national government with minor contribution from international donors. The actual **compensation** is entirely funded from the national budget.

The Land Restitution Unit manages the **Restitution Fund** which officially owns land and financial resources for compensation and restitution. The Restitution Fund can receive international donor funding.

WHAT DID NOT WORK AND WHY

The law looks specifically into **land** issues while housing compensation is not as strong.

It was difficult to recruit people for the Land Restitution Unit as there were **not many legal specialists** in housing rights.

Synchronisation with housing strategy: the housing policy in Colombia is generally considered quite poor. And despite the Victim's law refers to the housing and land concept and thus makes it more or less synchronised – this still highlights the fact that in the event of an absence of a comprehensive or well elaborated broad national housing concept – the IDP/conflict affected provisions would not suffice.

Restitution mechanisms

The law gives back the land with the title for this land. The law envisages **three scenarios:**

- People receive the land plot back (restitution)
- Compensation: people receive a similar land plots elsewhere
- Financial compensation: If restitution is not possible – then people get financial compensation (through a Restitution Fund that is managed by the Government).

Stages:

- **Admin stage:** investigation by the Land restitution department: 100 000 cases of claims of land registered in the Land registry (different from cadastre registry)
- **Judicial stage** - 13 000 cases presented to court during these 6 years.

WHAT DID NOT WORK AND WHY

- The law gives **priority to restitution over compensation**. The only reason of receiving compensation is that the land is destroyed. This creates risks of involuntary displacement.

Those **territories that are under control of armed groups are not subject to restitution** options. Only the by the Government liberated areas are accessible for the respective authorities to verify the property. The requirements are political control over the territory, security and personal safety guarantees.

Compensation mechanisms

Listed in previous paragraph

WHAT DID NOT WORK AND WHY

If a land plot is restituted but the property on it is destroyed – the law in such cases refer to the local municipality. In such cases the compensation or financial assistance for destroyed housing should be provided by the municipalities. Yet the problem is that **many municipalities have a very poorly elaborated housing policy** / or do not have a housing policy at all. Therefore, this creates a legislative limbo for people who require compensation.

Housing Provision Procedure

The victim submits the claim to the Land restitution unit: either in Bogota or in the local offices across the country. The Land restitution unit examines the claim, verifies the land/housing (if there is physical access to the territory that must be accessible for the Government). If the administrative stage is successfully terminated with sufficient proves – the Unit brings the case before the court. In the court it is either a representative of the Unit, or the claimant him/herself who can defend the case. The court examines and only through a court decision the property can be restituted.

Security of Tenure in Housing Provisions

Level of land tenure informality is as high as in Ukraine (**many people own land without documental proofs**).

The Land Restitution Unit investigates and collects proof of ownership by going to the respective claimed land.

GOOD POINTS

Therefore the **legislation is quite flexible** and gives the person multiple options to prove ownership.

Testimonies of neighbours are allowed by the court.

The only document that an IDP needs to present is his/her ID.

CYPRUS

General context on Housing Solutions and Compensation for Destroyed/Damaged Housing for IDPs in the country /

The Immovable Property Compensation Commission was established by the introduction of Law 67/2005, the 'Law for Compensation, Exchange and Restitution of Immovable Properties' in response to various individual cases which had been brought before the European Court of Human Rights (ECHR) against Turkey by Greek Cypriots. In those cases, the Greek Cypriot applicants claimed that Turkey had violated their right to respect for their private and family life under Article 8 of the European Convention on Human Rights, because they had been forced to abandon their homes and properties in the North as a result of the military intervention in 1974 and had lost their right to physical use and occupation of these properties due to the fact that they were unable to access these properties as a result of the division of the island.

In 2015 the ECHR ordered Turkey to pay €90 million in damages resulting from its invasion and subsequent division of the island; two-thirds was to go toward restitution for property claims to the Greek minority population in the TRNC. Turkish officials said Turkey would not pay this penalty.

Restitution mechanisms

Before 2005 no restitution came into effect, as there was no opportunity for Greek Cypriots to return to their places of origin. But because of that circumstance the ECtHR allowed for Greek Cypriots claim directly to the ECtHR without exhausting the domestic remedies.

The Governmental mechanism was established in 2005, after ECtHR judgement *Xenides-Arestis v. Turkey*. From those times on the restitution can only be granted where:

1. Ownership or use of the property has not been transferred to any person other than the state, provided that restitution does not constitute a threat to national security and public order and is not in a military zone.
2. If ownership or use of the property has been transferred to another person under the laws of the TRNC, restitution is only possible where: a. no improvement has been made to the property, or b. any improvement which has been made to the property is less than the value of the property when it was abandoned, or c. no project for such improvement has been issued by the relevant authorities, or
- d. the property has not been acquired in exchange of property left in the South of Cyprus. In the event that restitution is granted, the person who has ownership/use under the laws of the TRNC will be compensated by the TRNC. Restitution in this situation would only take effect after a settlement to the Cyprus problem. In the meantime, the person who has ownership/use under the laws of the TRNC would not be able to sell or improve the property.

Compensation mechanisms

If the restitution is not possible, the compensation is calculated as follows:

1. The market value on 20th July 1974
2. Loss of income and increase in value since 1974
3. Whether the applicant is in possession of any Turkish Cypriot property in the South and whether the applicant is receiving any income from such property
4. Non-pecuniary damages based on the manner of use of the property and the loss of individual, family and moral ties to the property.

Claims commissions

In 2005 the TRNC Government passed legislation, and in 2006 created the Immovable Property Compensation Commission, which would be a local semi-judicial body made up of a minimum of 5 and a maximum of 7 members to hear and assess claims by Greek Cypriots in respect of their properties in the North and to make binding orders for the restitution, exchange or compensation for those properties to be granted to the Greek Cypriot applicants.

In March 2010, the ECHR gave judgment in the case of *Demopoulos v Turkey*, ruling that the Immovable Property Compensation Commission constitutes an effective local remedy for Greek Cypriot property claims. This means that Greek Cypriots must refer their claims to the IPC and must have exhausted this as a potential remedy before they can file a case against Turkey in the ECHR. As a response to this decision, there has been a significant increase in the number of Greek Cypriots applying to the Commission. Many Greek Cypriots have lost hope in the prospect of a comprehensive solution to the Cyprus problem being achieved and feel that an application to the Commission is now the only way to seek an effective remedy for their claims. Originally, the Commission was intended to operate from the date of the legislation until 21st December 2009. This has now been extended.

By the end of 2014, approximately 6,000 applications had been lodged with the commission; around 600 had been resolved (10%).

**Housing Provision
Procedure**

Greek Cypriots bear the burden of proving that the real estate in Northern Cyprus used to be in their ownership (in the ownership of their deceased predecessors) before 20th of July 1974 and there are no other eligible competitors for this real estate.

First the Ministry for Housing Affairs considers an application within 30 working days and then responds giving its opinion. Following the submission of the opinion of the Ministry, the Commission may call a meeting to give directions in relation to further detail or documents required and whether a site inspection will be carried out. The Commission has the power, should it deem appropriate, to call and hear witnesses. Decisions of the Commission are taken on a simple majority basis with a quorum of 2/3 of the total number of members. The Commission must announce a decision within 3 months. However, the writing of the reasoned decision may be extended by up to 6 months in some circumstances.

Once the Commission has reached a decision, the Ministry will issue the applicant with an offer of a 'Friendly Settlement' setting out the terms of the settlement offer. The applicant must respond to this within 1 month. If the applicant accepts the offer, the Friendly Settlement will be signed and executed. If the applicant rejects the offer, a notice of disagreement will be issued. If no settlement can be reached, the applicant has the right to appeal to the High Administrative Court and then, ultimately to the ECHR.

**Security of Tenure
in Housing
Provisions**

The Commission has the power to order restitution (reinstatement of the property to applicant), exchange (offering an alternative property to the applicant) or compensation for the property and also to order compensation for loss of use and nonpecuniary damages where the property in question was a home.

In the case that restitution is not possible the Commission can consider offering an exchange or compensation.

Where an exchange is proposed, if the value of the property being offered in exchange is more than the value of the property which is the subject of the claim, the applicant will pay the difference. Where the value of the property being offered for exchange is less than the value of the property which is the subject of the claim, the applicant will be compensated for the difference. In addition to exchange, the applicant shall be entitled to also claim for compensation for loss of use and for non-pecuniary damages.

Once a settlement has been reached, applicants cannot make a claim in respect of their property again in the future.

Applications can also be made to the Commission in respect of movable property which was lost in 1974.

**Selection of
beneficiaries**

Each Greek Cypriot is entitled to claim in individual procedure.

**Corruption risks
mitigation**

The Immovable Property Compensation Commission, which is half-executive and half-judicial body, proved to be reliable entity because of the following factors: close observations over its activities, above all by Council of Europe bodies; the transparent democratic decision-making process directly described by the law.

**Discrimination
mitigation**

No discrimination cases were reported

**Legislative
amendments
adopted**

The Immovable Property Compensation Commission was established by the introduction of Law 67/2005, the 'Law for Compensation, Exchange and Restitution of Immovable Properties'

GEORGIA

<p>General context on Housing Solutions and Compensation for Destroyed/Damaged Housing for IDPs in the country</p>	<p>The total number of registered IDPs is 259,247 or 86,283 families (according to MRA statistics as of 17.09.2014, latest available on the official website). IDPs represent about 6% of Georgia's population, giving it one of the world's highest incidences of internal displacement relative to its overall population. People lost their family homes and were forcibly displaced as a result of wars in 1990s (233,000 persons) and 2008 (initially - 192,000 persons, most of whom were able to return but over 26,000 are still displaced). Thus, IDPs in Georgia are always referred to as representing 2 separate case loads. 44% of IDPs are living in Tbilisi and about 26.4 % - in Samegrelo-Zemo Svaneti region, neighboring to AAR. In total 75% of IDPs live in urban areas. The issue of housing is particularly prominent for old case load IDPs, many of whom still reside in collective centers. Return has largely not been possible for IDPs displaced to undisputed areas of Georgia.</p>
<p>Restitution mechanisms</p>	<ol style="list-style-type: none"> 1. Law of Georgia on Internally Displaced Persons – Persecuted from the Occupied Territories of Georgia 2. Law of Georgia on Property Restitution and Compensation on the Territory of Georgia for the Victims of Conflict in the former South Ossetia Region (2006) 3. In Abkhazia, housing, land and other property owned by IDPs have been destroyed or illegally occupied, purchased and sold. To protect the HLP rights of IDPs, President Saakashvili issued <i>an ordinance on Measures to Register the Rights to Immovable Property located in the Abkhazian Autonomous Region and Tskhinvali Region (No.124)</i> in February 2006. 4. <i>Ordinance No. 326 of the President of Georgia on approval of the rule related to the preliminary registration of immovable property on occupied territories of Georgia (2011)</i> abolishes the above ordinance No. 124. Alienation of the property located on occupied territories of Georgia or any preliminary right over it, or concluding any type of deal on it prior to its registration under the public registry is recognized impermissible. <p>GOOD POINTS</p> <ol style="list-style-type: none"> 1. IDPs have right to restitution remaining property on the occupied territory and inherit it. 2. Established a property registration program “My House” with funding from the President’s office to register ownership of properties owned since 23 September 1993, irrespective of the owner’s nationality. IDPs must fill in a form and once ownership is proven will receive a certificate signed by the MRA as proof of ownership. <p>WHAT DID NOT WORK AND WHY</p> <ol style="list-style-type: none"> 1. A six-member commission consisting of two representatives each from Georgia, South Ossetia and the international community had to be established by mid-2007, but was not formed, and the status of the law is unclear following the August 2008 conflict. 2.1. The program has antagonized the <i>de facto</i> authorities and has raised the hopes of IDPs that they will one day be able to reclaim their property or receive compensation. 2.2. The program proved to be ineffective as it was not adequately linked to the cadastral records. <p>Although the program ostensibly was voluntary, some IDPs reported not being allowed to renew their IDP registration unless and until they submitted a claim under the program.</p>
<p>Compensation mechanisms</p>	<p>There are no mechanisms in place for IDPs to recover or get compensation for their houses and land in places of origin.</p>
<p>Claims commissions</p>	<p>The steering committee chaired by MRA was set up to operationalize the State Strategy on IDPs and has subsequently established several temporary expert groups (TEGs): on privatization; on complaints and redress mechanisms; and on guiding principles on durable housing solutions.</p> <p>GOOD POINTS</p> <p>A reception centre and case management system for receiving and addressing the individual concerns of IDPs was established at MRA in April 2010.</p>

<p>Housing Provision Procedure</p>	<ol style="list-style-type: none"> 1. Privatization of long-term accommodation for IDPs 2. Resettlement of IDPs to rehabilitated and newly constructed buildings or \$10,000 in lieu of these housing options 3. The rural house acquisition program 4. Acquisition and transmission of privately owned accommodations to IDPs 5. In case IDP family, in need of DHS, rejects moving into a built, rehabilitated or purchased building offered by MRA, an alternative offer will be made only after other IDP families are provided with DHS. <p>GOOD POINTS</p> <ol style="list-style-type: none"> 1. Transferring temporary private ownership to IDPs, in order to ensure their long-term resettlement and enable IDPs to freely dispose their property (buying, selling, renting, mortgaging, etc.). 2. Transfer of ownership to IDPs. <p>Allocation of IDPs in newly constructed apartment blocks, accommodation of IDPs in individual houses (purchased or newly constructed) in rural areas.</p> <p>WHAT DID NOT WORK AND WHY</p> <ol style="list-style-type: none"> 1.1. IDPs have very little awareness about setting up condominiums, and practical issues such as installing individual electricity meters are complicated in buildings that are only half privatised. 1.2. The government only approved renovation standards and defined the minimum living space midway through the privatization process, resulting in a less favourable treatment of some displaced people compared to others. 1.3. IDPs do not necessarily achieve a durable housing solution upon signing a privatisation agreement given inadequate living space and shared facilities. 1.4. No rehabilitation has taken place in Tbilisi, officially as a result of a policy of prioritising refurbishment outside the capital in view of their lower real estate values. <ol style="list-style-type: none"> 2.1. Most of the new cottages had defects including damp, leaking roofs, extensive mould, large cracks in walls and badly warped floorboards. 2.2. IDPs were not consulted and did not participate in the process, and there was a lack of transparency in the allocation of the settlements and housing. 2.3. Resettled IDPs signed a handover document when they moved in, but many families were still waiting to receive their ownership documents. 2.4. Some IDPs who opted for the \$10,000 payment had still not received it two years after their application was approved 2.5. As part of government efforts to provide IDPs with long-term housing, more than 1,600 IDP families were evicted from temporary shelters between June 2010 and August 2011. <p>by contrast, IDPs displaced in the 1990s who could not or did not wish to privatize their current living space were to be supported through resettlement to alternative accommodations but were not eligible for any compensation</p>
<p>Security of Tenure in Housing Provisions</p>	<ol style="list-style-type: none"> 1. CCs are accommodating approximately 38% of IDPs, with 16.7% now living in rehabilitated centres and 21.5% in non-rehabilitated. 2. Many IDPs are poorly informed about housing guidelines, renovation and privatization procedures, and the overall plans by the Government in addressing their housing needs. 3. Housing conditions for returned IDPs continue to be inadequate. Many returned IDPs cannot afford to rebuild their houses, others are reluctant to rebuild in the absence of the rule of law and a lasting settlement of the conflict. <p>GOOD POINTS</p> <ol style="list-style-type: none"> 1. Quick response to new case load of IDPs in 2008 by building cottages and refurbishing blocks of flats to be given to the newly settled IDPs under their ownership. 2. The privatisation-based approach. 19.6% of IDPs are registered as owning their own properties. <p>The Government of Georgia has offered USD 10, 000 to each IDP family to secure their eviction. Some families received financial compensation and left the collective centres.</p>

	<p>WHAT DID NOT WORK AND WHY</p> <ol style="list-style-type: none"> 1. Problems of access to social services, as well as sustainability problems still prevail in the new settlements. 2. Old case-load IDPs were primarily settled in CCs where many of them stay till now, while new case-load IDPs were settled in newly constructed homes as part of the government's response to the August 2008 conflict. 3. Many IDPs refused to accept the alternative housing offered, as it was located in rural areas lacking infrastructure, basic services and employment opportunities 4. The living spaces used as CCs (hotels, schools, and other public buildings) not suitable for living. 5. The rate of housing privatization has differed between IDPs of different case loads, characterized by non-standardized quality of housing across IDPs 6. Size of the housing subsidy is determined by the number of family members and is not sufficient to buy a house. Can only be used when supplemented with a mortgage or a loan. The process of receiving the subsidy is long and complex, which presents a coordination problem when house searching. IDPs need to negotiate purchase of a house with a seller but cannot rely on the timeframe in which they will receive the subsidy. 7. The government has offered up to \$15,000 for returnees to repair their homes, but many refused claiming the amount to be insufficient.
<p>Selection of beneficiaries</p>	<p>The rules and eligibility criteria for the Provision of IDPs with the living space is set out in <i>the MRA Decree No. 320 on rules related to provision of housing to IDPs (2013)</i>. Annex No. 6 includes "criteria for assessment the opportunities for using the living space"; Annex No. 7 includes "social criteria". In order to receive housing, IDP families receive scores in accordance with the criteria.</p> <p>GOOD POINTS</p> <p>Objective (condition of living) criteria</p> <ul style="list-style-type: none"> - IDPs under threat of eviction from privately owned CCs (3) - IDPs under threat of eviction due to non-ability to repay mortgage loan (1,5) - Living conditions are deplorable and do not comply with minimal living conditions (2) - IDPs in CCs that are important the Government and/or local authority buildings (3) - IDP family living in someone else's house (except for immovable property owned by the state) with or without rent (1,5). <p>Subjective (family vulnerability) criteria</p> <ul style="list-style-type: none"> - families registered in the unified database of socially vulnerable families - Family with 2 and more family members under the age of 18 - Family member is a patient with oncological disease - Family members have clearly, considerably or moderately visible disability - Parent or widow who takes care of minor child or children alone - Elder persons carrying out custodianship or taking care of minor child(ren) or grandchild(ren) - Pensioner living alone or a family with more than half of members of the retirement age <p>Veterans of war for territorial integrity of Georgia and family members of persons who died or are missing as a result of war for territorial integrity of Georgia</p>
<p>Discrimination mitigation</p>	<p>Unequal state housing assistance to IDPs of different case loads.</p>
<p>Legislative amendments adopted</p>	<p>1. The State Strategy on IDPs in 2007, and subsequent Action Plans as of 2009-2012, 2012-2014, 2015-2016.</p>

2. According to the Action Plan, DHS for IDPs will be implemented in three phases: 1) IDPs living in CCs, who are in need of durable housing and for whom the government offers their current accommodation; 2) IDPs in CCs but government cannot offer them these buildings (because they are not habitable for technical reasons, rehabilitation is expensive, is privately owned, represents strategically important public building), as well as IDPs who have been living in private accommodation, but are still in need of a DHS; 3) IDPs who for some reason have refused offers from the government. The aim for this group is to examine other possibilities for DHS, i.e. one time monetary assistance.

3. Law of Georgia on Internally Displaced Persons – Persecuted from the Occupied Territories of Georgia (Art. 12-15 on housing and property rights)

4. The Standard Operating Procedures for Vacation and Reallocation of IDPs for Durable Housing Solutions (2010).

5. The Law of Georgia on Occupied Territories (Art. 3-6 on legal regime of the occupied territories)

6. The Tax Code of Georgia

7. Decree No. 2387 of Parliament on the Provision of IDPs with Living Space (6 June 2003)

8. Approved Standards of the Rehabilitation of Collective Centers, Reconstruction and Construction for the purpose of providing IDPs with Long-term Housing Solutions
Shelter Standards for the Conversion or Rehabilitation of Collective Centers and for New Construction (2009).

GOOD POINTS

1. Aimed at durable housing solutions without prejudice to IDPs right to return. Marked a focus on integrating IDPs in host communities by providing options for home ownership
2. Targets both the IDPs in private accommodation and those in collective centres. This has effectively prevented further discrimination of IDPs residing in private accommodation, but still in need of a durable housing solution.

3. IDPs are entitled to adequate housing in Georgia until they can return to places of permanent residence or until durable housing solutions are in place. Includes full protection from forced evictions in premises under IDPs' legal ownership.

4. Stipulates rules and regulation with regard to resettlement procedure and was developed in collaboration with international and national actors including UNHCR, the EU and Ombudsman's Office of Georgia.

4.1. In its decision in case *Saghinadse and Others v. Georgia* (27 May 2010) the ECHR notes that the IDP Law "recognised that an IDP's possession of a dwelling in good faith constituted a right of a pecuniary nature. Thus it was not possible to evict an IDP against his or her will from an occupied dwelling without offering in exchange either similar accommodation or appropriate monetary compensation"

5.

IDPs are exempt from taxes for the property received from the State and from income on the initial sale of that property. Tax exemption is also foreseen for owners whose property is used as a dwelling for IDPs or has been registered as a unit of organized accommodation for IDPs.

WHAT DID NOT WORK AND WHY

1. Following the adoption of the 2009 Action Plan, many IDPs were resettled away from the capital, moving them out of collective centres that the government intended to remodel for different uses. Evictees were effectively cut off from their social networks, as well as sources of income, healthcare, and education.

2. Those IDPs residing in private accommodation are still the last priority. Even though their living conditions might be better than in CCs, the risk of eviction is much higher.

3. Still, challenges remain for IDPs who continue to reside in public collective centres.

4. Cases of eviction in which the only alternative accommodation offered to IDPs was located in a region far from the IDPs' current place of residence caused secondary displacement.

5. Restriction on free movement, economic activities, and ban on any transaction of real property within the occupied territories. Criminal responsibility for violation of the law, thus preventing IDPs from freely disposing of their land, including for sustainable income-generating opportunities and livelihood measures.

6. No land tax exemption for temporary use by IDPs.

MOLDOVA

*General context on
Housing Solutions
and Compensation
for
Destroyed/Damaged
Housing for IDPs in
the country*

In Moldova the majority of the housing stock is located in rural areas, while 39% in urban areas.

The ownership structure of the dwellings is predominantly private. The private ownership rate reaches 96% with 99% in rural areas and 92% in urban areas. Municipalities of Chisinau and Balti have the lowest level of private ownership of houses with respectively 89 and 88%.

1. Officially in Moldova there were registered 51,289 IDPs (including 28,746 children). According to unofficial data – 130,000. A ceasefire signed in July 1992 enabled most of the displaced persons and refugees to return. However, between 6,000 and 10,000 IDPs remained displaced from the Transnistrian region and had to integrate locally.
2. Return has been hampered by the occupation or deprivation of properties or occupancy rights by the Transnistrian authorities, who have reallocated "abandoned" properties or apartments to newly arrived Russian citizens.
3. For the solution of the housing problem the following key measures were taken:
 - citizens, whose houses were destroyed, as well as displaced persons, who did not return to the left-bank area, were granted interest-free loans for a term of 15 years in the amount of not more than 400 thousand roubles for one borrower (bank losses were covered at the expense of the state budget). Commercial banks were also engaged. The Ministry of Finance paid the interest on the loan, and if displaced persons took part in the hostilities, the state paid 50% of the loan amount;
 - in 1998, funds were granted twice to the Chisinau Mayor's Office – 0.5 million roubles and MDL 1.5 million – for provision of dwelling-space to persons, who suffered as a result of the armed conflict;
 - in 2005, the municipal enterprise "Capital Construction Administration of the Chisinau Municipal Council" received from the state budget MDL 5 million for construction of a residential building for internally displaced persons.

Note: it might be confusion with terminology. At first, persons forced to flee their homes from the left bank of Dniester River were named "refugees" as Moldova joined the 1951 Convention only in 2001.

GOOD POINTS

1. IDPs received all kinds of social benefits and pensions.
2. For IDPs living in hotels, dormitories, rented housing financial assistance was provided to cover housing costs. To avoid fraud stacked agreement between local authorities and homeowners was concluded.
3. The state pledged to provide permanent housing for IDP participants of military operations and ones engaged in political activity against separatism within five years.
4. In 1997, only 150 families of those who did not return to the left-bank area needed housing.

WHAT DID NOT WORK AND WHY

Despite measures taken to finance acquisition and construction of housing, the problem has not been solved yet:

1. The measures implemented by government were focused primarily on solving urgent needs of displaced people. Regulations adopted by government, contained a reference to 'urgent measures", separate long-term assistance programs were not adopted. Thus, there was no systematic approach to identifying, understanding and addressing IDP housing issues.
2. Most measures taken by the Moldovan authorities on behalf of IDPs targeted households displaced before or during the armed conflict in 1992, while persons displaced after the ceasefire have been largely ignored. People from the last category often were not even considered IDPs.
3. While lots of houses and dormitories are in poor condition there is no governmental policy of repairing/renovating housing stock.
4. No available social housing.

<i>Restitution mechanisms</i>	No restitution mechanisms
<i>Compensation mechanisms</i>	Costs of reconstruction of destroyed and damaged residential buildings and of compensation of material damage to population that suffered in the conflict were incurred both by Moldova and Transdnistria.
	<p>In Moldova, according to the Decision adopted by the Government in November 1992 establishment (<u>before ECtHR judgement</u>), caps were fixed for the amounts of compensation for the damage caused to persons that suffered as a result of the armed conflict:</p> <ul style="list-style-type: none"> - for the damaged buildings – within the limits of the real damage less costs of construction materials granted to citizens by the local authorities free of charge; - for household goods – within the limits of claimed damage, but not more than 500 thousand roubles (to one family); - for transport vehicles – according to the established amounts of damage within the limits of 400 thousand roubles. <p>The compensation was allocated from funds of state insurance company, even if the property was not insured.</p> <p>GOOD POINTS</p> <p>In Transdnistria funds from the republican budget were provided to the population as a compensation for the damage done by the armed conflict:</p> <ul style="list-style-type: none"> - for stolen private property – up to 500 thousand roubles per family; - for hijacked/ burned transport facilities – up to 400 thousand roubles; - for the damaged buildings – within the limits of the real damage; <p>for lost livestock – the amount corresponded to the purchasing price.</p>
<i>Claims commissions</i>	<p>October 28, 2009: <u>Case of Olaru and Others v. Moldova</u>. Applicants claimed violation of the right to a fair trial and the right to property. At the same time applicants applied for housing as retired law enforcements employees or public servants, not IDPs.</p> <p>The ruling stated Moldova's failure to comply with final judgments awarding social housing to applicants.</p> <p>About 100 applications of the same nature are waiting for admissibility decision.</p> <p>Initially applicants filed an application against Moldova and Russia, but later the Court declared Russia inadmissible</p>
<i>Security of Tenure in Housing Provisions</i>	<p>At first stages IDPs were provided temporary one-room apartments in the municipality of Chisinau or temporary housing in various regions of the country <u>according to lease agreements</u>. The state is the owner of permanent housing, which IDPs received. However, IDPs have the right to privatize it for free (20 m per person + 10 m per family).</p> <p>For IDPs living in hotels, dormitories, rented housing financial assistance was provided to cover housing costs. To avoid fraud lease agreements were concluded between local authorities and homeowners.</p> <p>There are no official figures on forced evictions in Moldova.</p> <p>There were documented several cases of privatization right abuse, when IDP families managed to obtain ownership for two and more pieces of housing.</p>
<i>Selection of beneficiaries</i>	<p>The registration of IDPs who are need of housing is conducted by municipalities. The majority of them live in Chisinau. Currently, there are 120 internally displaced families registered for housing in the city of Chisinau.</p> <p>Housing is distributed according to the lists of internally displaced persons from the eastern regions of the Republic of Moldova, who currently live in municipality of Chisinau, according to the following categories:</p> <ul style="list-style-type: none"> • families of those killed during the hostilities; • persons who became disabled due to injury related to participation in hostilities; • multi-children families; <p>other categories of refugees from the eastern regions of the republic.</p> <p>Some IDPs claim cases of corruption while distributing housing – representatives of law enforcement agencies are the first to obtain apartments.</p>

*Corruption risks
mitigation*

There are elements of corruption in public sector procurement.

Government Decision No. 719 as of 03.11.1992 states employees of the internal affairs bodies who do not have the opportunity to return to their permanent duty station due to political reasons and who were transferred to work in other settlements will be provided with housing during the year since the transfer. To solve the problem, in 2002 in state budget were provided 600,000 lei, but only 200,000 were allocated, in the budget in 2003-2004 there were 400,000 lei, but none of these amounts were allocated. Besides that, Chisinau City Hall promised to allocate land for the construction of houses for IDPs. The promise of the Moldovan authorities was not fulfilled after 17 years.

"Movement of Transdnestrian Refugees", an association of internally displaced persons in Moldova, consider it as violation of IDP rights and sign of corruption and appealed to ECHR.

No cases of discrimination were documented.

*Discrimination
mitigation
Legislative
amendments
adopted*

1. RM Government Decision No 720 "On Measures to Assist Citizens and Families Leaving Area of Armed Conflict" stipulated one part of displaced persons was provided with temporary housing in various regions of the country. 05.11.1992
2. RM Government Decision No. 658 "On providing housing for citizens forced to leave their homes in the eastern part of Republic of Moldova" stipulated IDPs were provided temporary one-room apartments in the municipality of Chisinau, 21.10.1993
3. RM Government Decision No 779 "On approval of the provision on granting interest-free long-term loans to families of deceased participants of military activities", 30.11.1992
4. RM Government Decision No 949 "On providing dwelling space to persons who suffered as a result of the armed conflict of 1992, 24.09.1998
5. RM Government Decision No 1410 "About the plan of measures for providing internally displaced persons from the eastern regions of the Republic of Moldova with housing"
- Action plan for providing IDPs with permanent housing, 20.12.2004

WHAT DID NOT WORK AND WHY

The amendments were implemented mostly by Government Decisions without introducing changes to codes. Most of those regulations are no longer effective, while IDP housing problem still exists.

**General context on
Housing Solutions
and Compensation
for
Destroyed/Damaged
Housing for IDPs in
the country /**

During the conflicts of the 1990s Serbia received several hundred thousand refugees, mostly ethnic Serbs forced out from Bosnia and Croatia, and IDPs, mostly Serbs who left Kosovo after the NATO bombing in 1999 and the internal administration established in Kosovo. For this reason, Serbia didn't implement a property restitution process: IDPs and refugees present in Serbia were very often the claimants of properties in the property restitution process in neighbouring countries and regions.

More specifically, for what concerns IDPs, a mass claims mechanism was operating in Kosovo (the HPCC/HPD run by UNMIK), but the coordination with the authorities in Serbia was lacking or very scarce. The mass claims mechanism was rather complex and initially focussed only on residential property. Only later it was expanded to cover also commercial and agricultural property. From the point of view of the remedies, repossession was the main remedy provided to claimants, mostly in the form of an eviction. Compensation was allowed only for a very limited number of cases and it was characterised by a constant lack of funding.

Given the fact that the claimed properties were located on territories outside Serbia, the Serbian authorities didn't have jurisdiction (de jure and de facto) on the territories where the properties were actually located.

As a result, housing processes in Serbia were conducted independently from the property restitution processes. It is also worth recalling that housing programs for a permanent solution for IDPs started a number of years after the conflict.

The process in Serbia was mostly driven by the humanitarian need to close down the collective centres (around 700 existed in 1996) and to provide a durable solution to the person in those centres. Such process is still ongoing: out of 700 collective centres in 1996, there were half of them in 2002 (388) and as of 2017 only 13 such centres continue to exist.

**Restitution
mechanisms**

Serbia was not under pressure to implement a property restitution process and therefore didn't need alternative housing. Serbia's efforts were aimed from the beginning to provide durable housing for displaced persons and refugees.

**Claims
commissions**

Within the programme to close down the collective centers, the competent authorities in Serbia (the Commissariat for Refugees and IDPs) regularly developed a series of strategies for the provision of housing to answer to the different categories of beneficiaries. Such categories were the following:

construction or purchase of apartments for those wishing to integrate in cities;

purchase of rural houses for those living in the country side;

credits;

allocation of building material for those persons who already owned a plot of land;

reconstruction of houses damaged houses.

These programs were implemented in accordance with the plans developed by the municipalities. Within each municipality lists of potential beneficiaries were made and possible solutions for housing were found. Each municipality could draft local action plans for the solution of the housing problem of IDPs and refugees.

**Security of Tenure
in Housing
Provisions**

Security of tenure depends on the actual solution provided to displacement. In general, tenure is protected at least as long as refugees and IDPs live.

For what concern apartments given for social housing, displaced persons and refugees were granted the right to use these apartments, but they can't actually achieve the right to private property. Such right could be revoked in case the tenants violated the contract on use.

Different are the provisions for the purchase of rural houses. In this case, a tripartite agreement is signed between the private seller, the municipality and the beneficiary, i.e. the IDP or refugee purchasing it. The municipality pays to the seller, while the beneficiary becomes the owner. In this case, sellers and buyers shall not be in any type of family relation. Limitations are placed on the property in the sense that the beneficiary can't actually sell the property for a period of 5 years and such provision is transcribed in the property book.

Building material is instead granted for free as donation.

**Selection of
beneficiaries**

Given the fact that Serbia doesn't recognise the independence of Kosovo (where most of IDPs come from), there is no way for the authorities of Serbia to check whether the beneficiaries of the housing program have access to their pre-war homes or not.

Housing programs were devised in the context of state wide strategies for the closure of collective centres and for the solution of IDP and refugee issues. Such strategies relied on effective action plans. Most of these plans were actually implemented in cooperation with the municipality where the IDPs actually resided.

The eligibility criteria for such plans were that the applicants, inter alia, needed:

- to be residents in collective centres in the specific municipality

- to be unable of repossessing their property in the area of displacement (based on a self declaration)
- to be without sufficient financial income
- to be able to work (in case they needed to buy rural homes)
- to prove that they don't have other property available to them in Serbia.

The allocation of this assistance was given based on a scoring system. The scoring system largely reflected the social needs of the family (i.e. number of family members) and their actual housing situation (i.e. collective centre residents). It is worth recalling that these housing programs were in fact decentralised, therefore the number of units per municipality is not very big. Beneficiaries who were not selected could lodge an appeal and seek inclusion in the process.

In Serbia, the list of beneficiaries for reconstruction was published and persons who were not selected could lodge appeals to the procedure.

Corruption risks mitigation

Discrimination mitigation

Applicants for housing programs were in general members of the main ethnic group in each specific area. However, in a number of situations, especially in Serbia, members of Roma population were also in need of housing, since many Roma were actually IDPs from Kosovo. In this case, very often the provisions for social housing in Serbia included those “returnees from readmission”, i.e. persons who sought asylum in the EU, failed and were returned to Serbia. In this category, the Roma population were largely represented, since it was mainly Roma who sought asylum in the EU and through this provision they were often included in housing programmes. As it can be seen, however, the distinction between housing programmes for displaced and for socially vulnerable cases was becoming more and more blurred.

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Country	HLP TWG Partner performed breakdown
Armenia	Shelter Cluster (Renee Wynveen coord1.ukraine@sheltercluster.org)
Azerbaijan	Right to Protect (Iryna Alexeeva i.aleksieieva@r2p.org.ua)
Bosnia&Herzegovina, Serbia	Council of Europe Project “Strengthening the Protection of Human Rights of Internally Displaced Persons” (Massimo Moratti Internally.Displaced.Persons@coe.int)
Colombia	OHCHR (Olesya Ogryzko oogryzko@ohchr.org)
Cyprus	NRC (Olena Lukaniuk olena.lukaniuk@nrc.no)
Georgia	DRC (Olga Kyryliuk olga.kyryliuk@drc-ukraine.org ; Isaac Robinson isaac.robinson@drc-ukraine.org)
Moldova	GIZ (Natalia Rebenko rebenko@mtot.gov.ua)