

Durable Solutions for Internally Displaced People: in a nutshell

Norwegian Refugee Council in Ukraine, drawing on the Inter-Agency Standing Committee's Framework on Durable Solutions for Internally Displaced Persons (April 2010), summarises the key elements of the Durable Solutions for Internally Displaced People and the criteria of measuring the progress towards them as well as presents the recommendations in areas where the prompt and sustained action of the Ukrainian authorities in the support of Internally Displaced People in Ukraine is needed.

Background

Displacement is a life-changing event. While the often traumatic experience of displacement cannot be undone, internally displaced persons (IDPs) need to be able to resume a normal life by achieving a durable solution. As articulated in principle 28 of the Guiding Principles on Internal Displacement, IDPs have a right to a durable solution and often need assistance in their efforts. Guiding Principles 28-30 set out the rights of IDPs to durable solutions, the responsibilities of national authorities, and the role of humanitarian and development actors to assist durable solutions. Principle 28 recognises that the competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow IDPs to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Securing durable solutions for the internally displaced is also in the State's best interests. Leaving IDPs in continued marginalization without the prospect of a durable solution may become an obstacle to long-term peace stability, recovery and reconstruction in post-crisis countries. Facilitating durable solutions requires that all stakeholders, including national and local authorities as well as humanitarian and development actors, work together, identify the right strategies and activities to assist IDPs in this process, and set criteria that will help to determine to what extent a durable solution has been achieved.

Definition

A durable solution is achieved when IDPs no longer have specific assistance and protection needs that are linked to their displacement and such persons can enjoy their human rights without discrimination resulting from their displacement.

Modalities

A durable solution can be achieved through:

- Sustainable reintegration at the place of origin (return);
- Sustainable local integration in areas where internally displaced persons take refuge (local integration);
- Sustainable integration in another part of the country (settlement elsewhere in the country).

Key principles guiding the search for durable solutions

- The primary responsibility to provide durable solutions for IDPs needs to be assumed by the national authorities. International humanitarian and development actors have complementary roles.
- The authorities concerned should grant and facilitate rapid and unimpeded access to humanitarian and development actors that assist IDPs in achieving a durable solution.
- The needs, rights and legitimate interests of IDPs should be the primary considerations guiding all policies and decisions on durable solutions.
- All relevant actors need to respect the right of IDPs to make an informed and voluntary choice on what durable solution to pursue and to participate in the planning and management of durable solutions.
- An IDP's choice of local integration or settlement elsewhere in the country, in the absence of the option to return, must not be regarded as a renunciation of his/her right to return should that choice later become feasible.
- Under no circumstances should IDPs be encouraged or compelled to return or relocate to areas where their life, safety, liberty or health would be at risk.
- IDPs seeking a durable solution must not be subject to discrimination for reasons related to their displacement. Likewise, populations and communities that (re-)integrate IDPs and whose needs may be comparable, must not be neglected in comparison to the displaced.
- IDPs who have achieved a durable solution continue to be protected by international human rights, and where applicable, humanitarian law.

Measuring progress towards solutions: understanding solutions as a process

Supporting durable solutions to internal displacement must commence at the onset of a displacement crisis. Supporting analysis should also be carried out from the start. In reality in many contexts progress towards solutions is not linear, but may instead be curbed, as IDPs are unable to reduce their vulnerabilities or face a new shock. Even in the best of cases, as the IASC Framework outlines, a solution may become truly durable only years or even decades after displacement due to residual needs or human rights concerns that IDPs may have, as fully achieving durable solutions often requires long-term development, reconstruction and reconciliation processes. A durable solution also does not imply that IDPs no longer require any kind of assistance or support. Instead, a durable solution indicates that IDPs' needs are no different from those of the non-displaced population, which may still very well require interventions by development and human rights actors. Durable solutions should therefore not be confused with decision-making on when actors providing specific assistance and protection to IDPs operationally disengage from a context, although analysis using the indicator library can also help inform this decision in a responsible manner.

Durable Solutions Analysis Guide: A Tool to Measure Progress towards Durable Solutions for IDPs, JIPS (2018), p. 25

Benchmarks of the progress towards the Durable Solutions

Criteria for determination to what extent a durable solution has been achieved include the following:



It will be necessary to apply the criteria bearing in mind the specific situation and context. Moreover, these criteria are interlinked and overlap (e.g. the restoration of land has a positive effect on livelihoods and an adequate standard of living). Under-pinning all of the eight criteria is the principle of non-discrimination — that IDPs are not discriminated against, neither on the basis of their displacement nor on other grounds. Given the complexities and challenges of many displacement situations, these criteria often mark an ideal that may be difficult to achieve in the medium term. The criteria should therefore be seen as benchmarks for measuring progress made towards achieving durable solutions.



Photo: Ingebjørg Kårstad/The Norwegian Refugee Council

Long-Term Safety and Security

IDPs who have achieved a durable solution enjoy physical safety and security on the basis of effective protection by national and local authorities. IDPs should have full and non-discriminatory access to national and local protection mechanisms, including police, courts and national human rights institutions. This includes protection from those threats which caused the initial displacement or may cause renewed displacement. The protection of IDPs who have achieved a durable solution must not be less effective than the protection provided to non-displaced populations.

While absolute safety and security may often not be achievable, IDPs must not be the subject of attacks, harassment, intimidation, persecution or any other form of punitive action. They must also be protected from landmines, unexploded ordinances, small arms or other violence.



Photo: Dmytro Tielushkin/The Norwegian Refugee Council

Access to Livelihoods and Employment

IDPs who found a durable solution also have access to employment and livelihoods. Employment and livelihoods available to IDPs must allow them to fulfill at least their core socio-economic needs. Reintegration often occurs in circumstances of fragile economies and high unemployment affecting the entire population, including IDPs. It will not always be possible for all IDPs to gain employment or regain their previous livelihoods.

However, IDPs must not face obstacles that prevent them from accessing employment and livelihoods on the same basis as residents. There might be a need for positive preferential measures to help IDPs acquire new professional knowledge, adapt to new livelihoods and acquire new skills (for instance, where IDPs from a rural area locally integrate into an urban environment or where IDPs were excluded from the labor market for a long time).



Photo: Ingebjørg Kårstad/The Norwegian Refugee Council

Enjoyment of an Adequate Standard of Living without Discrimination

IDPs who have achieved a durable solution enjoy, without discrimination, an adequate standard of living, including at a minimum shelter, health care, food, water and other means of survival.

An adequate standard of living requires that at a basic minimum IDPs have adequate access, on a sustainable basis, to: essential food and potable water; basic shelter and housing; essential medical services; sanitation; and education.



Photo: Ingrid Prestetun/The Norwegian Refugee Council

Effective and Accessible Mechanisms to Restore Housing, Land and Property Rights

IDPs who have achieved a durable solution have access to effective mechanisms for timely restitution of their housing, land and property or compensation for the incurred losses, regardless of whether they return or opt to integrate locally or settle elsewhere in the country. These standards apply not only to all residential, agricultural and commercial property, but also to lease and tenancy agreements.

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Photo: Ingebjørg Kårstad/The Norwegian Refugee Council

Access to Personal and Other Documentation without Discrimination

IDPs who have achieved a durable solution have access to the personal and other documentation necessary to access public services, reclaim property and possessions, vote or pursue other purposes linked to durable solutions. During the course of displacement, people often lose documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates, marriage certificates, voter identification cards, title deeds, school records and professional or academic certificates or social security cards. In other cases, IDPs may have never had documents or their documents were not recognized and this becomes a particular problem during their search for durable solutions.



Photo: Ingebjørg Kårstad/The Norwegian Refugee Council

Family Reunification

IDPs who wish to reunite with family members from whom they were separated have been able to do so and can seek a durable solution together. Families separated by displacement should be reunited as quickly as possible, particularly when children, older persons or other vulnerable persons are involved.



Photo: Oleksandra Ferlikovskaya/Norwegian Refugee Council

Participation in Public Affairs without Discrimination

IDPs who have achieved a durable solution are able to exercise the right to participate in public affairs at all levels on the same basis as the resident population and without discrimination owing to their displacement. This includes the right to associate freely and participate equally in community affairs, to vote and to stand for election, as well as the right to work in all sectors of public service.



Photo: Ingebjørg Kårstad/Norwegian Refugee Council

Access to Effective Remedies and Justice

IDPs who have been victims of violations of international human rights or humanitarian law, including arbitrary displacement must have full and non-discriminatory access to effective remedies and access to justice, including, where appropriate, access to existing transitional-justice mechanisms, reparations and information on the causes of violations.

Effective remedies include equal and effective access to justice; adequate, effective and prompt reparation for harm suffered; and access to relevant information concerning violations and reparation mechanisms.

Recommendations of the Norwegian Refugee Council (NRC) to the competent authorities of Ukraine

- In 2017, Ukraine adopted “Strategy of Integration of Internally Displaced Persons and Implementation of Durable Solutions to Internal Displacement until 2020” (Strategy).

This programmatic document foresees measures to be taken by the authorities in addressing key protection issues and in meeting displacement-related needs of the affected population.

It is critical to start review of the Strategy in a transparent and inclusive way to ensure the developing of an effective instrument to inform the governmental response to the protracted internal displacement in different domains and at different levels.

- Currently, the Ukrainian legislation links the payment of pensions to conflict-affected pensioners with the requirement to be registered as an IDP. This goes contrary to the laws of Ukraine and its obligations under international law, in addition forcing people to register as IDPs when they are not displaced or preventing from the integration into the host community due to the need to keep an IDP registration. This generates artificial statistics on IDPs that constitutes an obstacle for proper planning and decision-making in host communities.

It is critical to de-link the payment of pensions for conflict-affected pensioners from the registration as an IDP.

- Currently IDPs cannot participate in local elections at their actual place of residence. The reason for this is linking the voting address to the registered place of residence (the non-government controlled territories of Donbas or Crimea), which IDPs cannot change to their actual place of residence for a number of objective reasons.

It is critical to amend the applicable legislation with a view to ensure a full access by IDPs to their voting rights at national and local elections at the place of their actual residence.

- Lack of access to housing is described by IDPs in Ukraine as one of the key impediments precluding their sustainable integration into host communities. Recently developed by the Government of Ukraine administrative mechanism of compensation for property damaged or destroyed as a result of hostilities as well as the state programmes on social and affordable housing present the pathways for durable housing solutions for IDPs.

It is critical to further improve the compensation mechanism for all conflict-affected individuals and to allocate sufficient funding for the state housing programmes open to IDPs.

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