

Housing and property restitution

Sub-Commission resolution 2004/2

The Sub-Commission on the Promotion and Protection of Human Rights,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights, the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and other relevant international instruments on human rights and humanitarian law,

Recalling its resolution 1998/26 of 26 August 1998 on housing and property restitution in the context of the return of refugees and internally displaced persons, its decision 2001/122 of 16 August 2001 on the return of refugees' or displaced persons' property, its resolution 2002/30 of 15 August 2002 on the right to return of refugees and internally displaced persons, its resolution 2002/7 of 14 August 2002 on housing and property restitution in the context of refugees and other displaced persons, its resolution 2003/17 of 13 August 2003 on prohibition of forced evictions and its resolution 2003/18 of 13 August 2003 on housing and property restitution,

Recalling also Commission on Human Rights decision 2003/109 of 24 April 2003 on housing and property restitution in the context of the return of refugees and internally displaced persons, and taking note of Commission resolution 2004/28 of 16 April 2004 on prohibition of forced evictions,

Reaffirming the right of all refugees and displaced persons to return freely to their countries and to have restored to them housing and property of which they were deprived during the course of displacement, or to be compensated for any property that cannot be restored to them,

1. *Urges* all States to ensure the free and fair exercise of the right to return to one's home and place of habitual residence by all refugees and displaced persons and to develop effective and expeditious legal, administrative and other procedures to ensure the free and fair exercise of this right, including fair and effective mechanisms designed to resolve outstanding housing and property problems;

2. *Reiterates* that the adoption or application of laws by States that are designed to or result in the loss or removal of tenancy, use, ownership or other rights connected with housing or property, the retraction of the right to reside in a particular place, or laws of abandonment employed against refugees or internally displaced persons pose serious impediments to the return and reintegration of refugees and internally displaced persons and to reconstruction and reconciliation;

3. *Affirms* that the remedy of compensation should only be used when the remedy of restitution is not possible or when the injured party knowingly and voluntarily accepts compensation in lieu of restitution;

4. *Welcomes* the progress report of the Special Rapporteur, Mr. Paulo Sérgio Pinheiro, on housing and property restitution in the context of the return of refugees and internally displaced persons, which contains the draft principles on housing and property restitution for refugees and displaced persons (E/CN.4/Sub.2/2004/22), as well as the draft commentary to the draft principles (E/CN.4/Sub.2/2004/22/Add.1);

5. *Requests* the Office of the United Nations High Commissioner for Human Rights to circulate the draft principles on housing and property restitution for refugees and displaced persons widely among non-governmental organizations, Governments, specialized agencies and other interested parties for comment;

6. *Requests* the Special Rapporteur to take those comments into account in the preparation of his final report to be considered by the Sub-Commission at its fifty-seventh session;

7. *Decides* to continue consideration of this issue at its fifty-seventh session under the same agenda item.

*18th meeting
9 August 2004*

[Adopted without a vote. See chap. VI.]