



**UNHCR Position on the Continued Protection Needs of
Individuals from Kosovo**

April 2002

Introduction

1. This paper is an update of UNHCR's position on the continued protection needs of individuals from Kosovo, and return there, as outlined in the previous position paper of March 2001.
2. The vast majority of Kosovo Albanians who fled during the Kosovo crisis have returned home, and only few of them have experienced individual protection problems. Groups who may have residual protection concerns are described in this paper.
3. Non-ethnic Albanian persons originally from Kosovo continue to face severe security threats which place their lives and fundamental freedoms at risk, and continue to compel some to leave the province. The situation of minority groups therefore remains a major concern, despite a range of improvements in the general situation in Kosovo. These improvements include the re-establishment of civil administration, the election and appointment of local authorities, the development of the economy, the improvement of policing and judiciary systems, and the introduction of special structures within UNMIK to promote the respect of minorities. While it is hoped that these developments will eventually lead to a real and lasting improvement in the situation of minorities, risks to their personal security and limited freedom of movement continue to impede their equal access to socio-economic benefits, health care, social services, education, employment opportunities, reconstruction of residential property and public utilities. UNHCR's position remains that members of the minority groups in Kosovo described in this paper should continue to benefit from international protection in countries of asylum.
4. In considering applications for asylum from persons originating from Kosovo, asylum countries may be inclined to assess whether an internal relocation alternative is available for them in other parts of FRY. The circumstances faced in Serbia and Montenegro by internally displaced persons from Kosovo lead UNHCR to the general conclusion that internal displacement in such conditions does not offer an adequate or reasonable alternative to international protection. Detailed information on current conditions for displaced persons from Kosovo is provided in this paper, in order to guide refugee status determining authorities in their cautious assessment of any internal relocation alternative.

I. Kosovo Albanians

Protection Categories

5. While most Kosovo Albanians are able to return without protection difficulties, there are certain categories of Kosovo Albanians who may face serious problems, including physical danger, were they to return home at this time. These include:

- *Kosovo Albanians originating from areas where they constitute an ethnic minority;*
- *Kosovo Albanians in ethnically mixed marriages and persons of mixed ethnicity;*
- *Kosovo Albanians perceived to have been associated with the Serbian regime after 1990.*

6. Claims from persons who fear persecution because they belong to one of these categories should be carefully considered in order to ascertain the need for international protection. Claims not falling in these categories may be considered in accelerated procedures.

7. The claims of traumatised individuals such as victims of torture or particularly egregious forms of violence (for example ex-detainees, or survivors of sexual violence), or witness to crimes against humanity, will require special attention, in that their past experiences will be highly relevant in determining their continued protection needs.

Vulnerable Individuals

8. Individuals in a particularly vulnerable situation may have special needs that should be taken into account in the context of return in the present circumstances. The following is a non-exhaustive list of persons falling under this category:

- *Chronically ill persons* whose condition requires specialised medical intervention of a type not yet available in Kosovo.
- *Persons with severe and chronic mental illness* whose condition requires specialised medical intervention of a type not yet available in Kosovo.
- *Severely handicapped persons* (including their caregivers) whose wellbeing depends on a specialised support system not yet available in Kosovo.
- *Unaccompanied elderly persons* who have no relatives or any other form of societal support in Kosovo.
- *Separated children* without relatives or caregivers in Kosovo, and for whom it is found not to be in the best interest to return to Kosovo¹.

¹ The return of separated children for whom relatives and caregivers have been identified should only take place after appropriate notification and arrangements have been made by the repatriating State.

II. Minorities

9. The term “minority” is used to describe groups of persons who are in a numerical minority situation in a particular location, regardless of their status elsewhere in Kosovo or in the rest of the Federal Republic of Yugoslavia (FRY).

10. Minorities continue to experience varying degrees of threat to their life and personal integrity. They also endure significant restrictions on their freedom of movement that, in turn, limit their access to basic services, reconstruction of residential property, property restitution procedures, employment and other economic activities essential for their survival. Severe restriction in the use of their language,² religion or their cultural traditions is a problem for some minorities.

11. Improvements in the general situation in Kosovo are having a gradual impact on some minority communities in specific locations, and some have managed to secure a limited degree of tolerance within certain areas. This does not imply that the risk of serious human rights violations has disappeared. Violent, attention-grabbing incidents are interspersed by periods of calm which can lead to a false sense of security or erroneous interpretations that circumstances have fundamentally changed. It is important to note that, even during such “quiet” periods, minorities continue to endure less visible forms of mistreatment that erode the community’s will to remain and hence continue to cause displacement or impede sustainable returns.

12. Furthermore, the continued presence of minority communities in specific locations does not guarantee the safety of returnees of the same group. In the current environment, long-term absence may be the cause of suspicion leading to protection problems upon return. Efforts to improve the situation of minorities which are beginning to take hold need to gain momentum before general conditions which are conducive to return in safety and dignity are created.

13. It is worth noting that no significant spontaneous return movements of internally displaced minorities or of minority refugees have taken place in the last year. Indeed, the few cases of return would appear to have been spurred more by push factors, such as increasingly difficult circumstances in exile, or politically-motivated return pressures.

14. UNHCR stresses that minority return should take place on a strictly voluntary basis and based on fully informed decisions of the members of this community. Any such voluntary return movements should be properly co-ordinated, and re-integration should be supported through assistance to ensure sustainability. Minorities should not be forced, compelled or induced to return to Kosovo.

² For more detailed background information on the current circumstances of ethnic minorities in Kosovo, see the joint *UNHCR/OSCE Assessments of the Situation of Ethnic Minorities in Kosovo*. The reports are available on UNHCR and OSCE’s websites at: www.unhcr.org/world/euro/seo/protect/minoritymenu, or www.osce.org/kosovo/publications/pdf/minrep.pdf.

Minority Groups of Concern

- **Kosovo Serbs**

15. The Kosovo Serb community remains the primary target of ethnically motivated violent attacks, including by grenades, deliberately laid landmines and booby-traps, drive-by shootings and arson. These attacks have been targeted at all members of the community, including the elderly, women and children. Physical security remains the overriding issue of concern for Kosovo Serbs as it not only affects their lives and fundamental freedoms, but also the enjoyment of a multitude of life-sustaining economic and social rights. Many live in enclaves and require 24-hour protection from KFOR, including for any movement outside these areas. Ethnically motivated crime often appears to be directed at ensuring that Kosovo Serbs leave, or do not return to the province. Persistent violations of property rights, which include forced evictions, illegal occupation of residential property, coercion to sell property, destruction of property and attacks on religious monuments and sites and desecration of cemeteries, have all contributed to the decision of many Kosovo Serbs to leave their homes and places of origin. When taken together, all of these ethnically motivated acts pervasively affect the community's sense of security whether or not actual physical harm occurs, as well as providing a source of intimidation, humiliation and demoralisation. They engender a reasonable perception of constant threat among members of the Kosovo Serb community.

- **Kosovo Roma, Ashkaelia and Egyptians (RAE)**

16. While there have been some recent improvements in their overall situation, RAE communities continue to face serious protection problems in Kosovo. General inter-ethnic tension and intolerance are compounded by particular discrimination against the RAE by almost all other ethnic groups in Kosovo, exacerbating the degree of hardship they face. Those who have been in exile and who are not familiar with the reality in the various communities where RAE reside are particularly affected.

17. The physical security of RAE communities remains volatile. While some communities have attained a degree of stability where violent attacks are rare, others continue to face regular violence and intimidation. However, even in areas where inter-ethnic relations appear to have improved, experience has demonstrated that the risk of attack remains, particularly from perpetrators coming from other areas.

18. Like all minorities, RAE communities live in enclaves or concentrated groups, and their freedom of movement is generally restricted, although this can vary according to geographic location. As RAE communities have historically relied on freedom of movement to earn a livelihood, this situation is particularly oppressive for them. The resulting restrictions on their ability to exercise basic social and economic rights also aggravates their already impoverished situation. Most RAE communities are hosting a substantial number of IDPs, which adds to the difficulty of their living conditions.

19. While there has been some return of RAE groups, this remains at a very low level. Despite comprehensive and cautious planning for return, incidents such as the stoning of returnee homes continue to take place. Moreover, the few spontaneous and facilitated voluntary returns that have occurred do not necessarily reflect a substantial improvement in the situation for the RAE communities in general. Most of these returns took place to specific

locations only after a protracted planning and preparatory process to ensure their security and sustainability. General conclusions regarding the situation of the RAE communities should not be drawn from these returns, or from individual exceptions to the general protection situation of these communities, which remains highly precarious.

- **Kosovo Bosniaks**

20. When compared to the situation of other minority groups, the security situation for Kosovo Bosniaks is relatively stable. Nonetheless, this community faces various forms of mistreatment, including intimidation, harassment, and discrimination, as well as some isolated incidents of violence. Like other minorities, Bosniaks live in concentrated communities or enclaves, and have limited freedom of movement outside their places of origin, especially into the main urban centres due to fear of attack. As a result, a KFOR security escort is required for travel beyond certain perimeters. Their inability to use their language without risking being considered as ethnic Serbs outside the enclaves and areas contiguous to them, is a source of continuous pressure and hardship. All of these limitations restrict their equal access to social services and effectively undermine the means for the community to remain self-supporting in the province. This situation is a major cause of displacement for Bosniaks.

21. The apparent advancement in inter-ethnic relations between Bosniaks and ethnic Albanians that has taken place in the last year should not be interpreted as having reached a level indicating a fundamental change in their general situation. Kosovo Bosniaks do not yet have full freedom of movement under secure conditions. It is therefore not possible to conclude that returns to this environment could be considered safe, dignified or sustainable in the longer term. Moreover, further concentration of Bosniaks into enclave like locations would only increase the pressure on the coping mechanisms of the community and perpetuate the causes of displacement. Voluntary returns of individuals of Bosniak ethnicity based on an informed choice, which are properly co-ordinated and supported by re-integration assistance, might result in sustainable returns. But hasty return movements which are not based on real choice could put those returned at real risk on the ground, as well as potentially destabilising the whole return process for minorities in Kosovo.

- **Kosovo Gorani**

22. The Gorani share similar protection concerns with the Bosniaks. Indeed, at times the distinction between the two minorities is blurred. However, certain sectors of the Gorani community are perceived to have closer links with the ethnic Serbs which has created stronger tensions between the Gorani and Kosovo Albanian communities.

23. The majority of the Gorani inhabit a clearly defined geographical area, Goran/Dragash, which, because of its isolation, is vulnerable to security-related incidents. Relative to other minority communities covered in this paper, Gorani enjoy some degree of freedom of movement within their area of origin and in Prizren. Reports continue to indicate harassment of members of this community if they travel outside this area where they face the additional risk, if they use their own language, to be mistaken for ethnic Serbs. The Gorani

face discrimination in accessing economic opportunities and social services because of their ethnic background and the associated issue of the language barrier. A combination of security concerns and uncertainty over their longer-term economic and social viability has compelled many Gorani to leave Kosovo.

III. Relocation within the Federal Republic of Yugoslavia

Is Relocation a Reasonable Option?³

24. When considering whether fear of persecution or other threats to life or liberty being experienced by members of the above mentioned minority groups of concern could be reasonably and successfully avoided by moving to other parts in FRY, decision-makers should take into account all the circumstances of the case, including the fact that FRY still hosts large numbers of refugees and IDPs from the earlier regional conflicts. The following considerations are particularly relevant to an assessment of the safety, viability and reasonableness of internal relocation as an alternative to asylum for minority groups from Kosovo.

Safety

25. Persons of non-Albanian ethnicity who left Kosovo for fear of their lives and personal security find relative security in Serbia and Montenegro. As citizens of FRY, in principle they should enjoy levels of protection comparable to other citizens, but in practice they may face serious limitations, and even discrimination, in the enjoyment of civil, economic and social rights.

26. The RAE community faces complicated challenges in FRY. They are confronted with a pattern of discrimination and their situation has worsened during the last 10 years of sanctions and economic decline. In the Kosovo conflict RAE were viewed with suspicion by all sides, and accusations of collaboration with one or the other side are multiple. Many RAE IDPs live in truly deplorable conditions, often below the level of human dignity. In and around Belgrade and other towns in Serbia and Montenegro, many RAE IDPs live in illegal settlements, without access to electricity, drinking water or sewage systems. These problems are often exacerbated by communication difficulties due to language differences.

Numbers and Access to Basic Economic and Social Rights

27. FRY is already hosting a large number of refugees from Croatia and Bosnia, as well as IDPs from Kosovo (231,100 as of February 2002). It is believed that there are additional unregistered IDPs from Kosovo in both republics, including a relatively large number of non-registered RAE. Departures from Kosovo have slowed but not stopped, so IDP numbers will continue to fluctuate upwards. The reception capacities in Serbia and Montenegro are, therefore, stretched to the utmost, and incapable of providing accommodation to any new arrivals, be it directly from Kosovo, or from third countries. The Serbian and Montenegrin Refugee Commissioners have provided 10,664 IDPs with collective accommodation (in

³ UNHCR has elaborated its generic position on the so-called "Internal Flight Alternative" in the Position Paper on Relocating Internally as an Alternative to Seeking Asylum (February 1999).

addition to 24,493 refugees from Croatia and Bosnia and Herzegovina). Close to 5,000 additional IDPs have found accommodation by squatting in 119 unoccupied buildings. They receive no assistance from the state authorities. All other IDPs have had to find their own individual accommodation throughout the country by means of hosting or private rental arrangements. UNHCR's assistance covers only the basic needs of IDPs accommodated in reception centres.

28. Despite the political changes from 2000 onwards, the economic situation in FRY remains extremely unstable, with refugees and IDPs finding themselves among the most vulnerable population groups. Average salaries in FRY are slowly increasing but the average cost of living for a family is increasing even further⁴. The official unemployment rate is around 30%, although it is higher in real terms. The social security system no longer functions as a survival mechanism for the unemployed, having by and large ceased to pay out benefits, however small, that those persons meeting the vulnerability criteria were entitled to. The collapse of the medical and social structures in the FRY and the consequent disappearance of a safety net for the most vulnerable sections of the population mean that a large percentage of the refugee and IDP population of this country is dependent on humanitarian assistance for survival. Plans to overhaul the social security system in Serbia are being formulated, but not yet being implemented.

29. IDPs may experience some additional disadvantages in Montenegro in as far as salaries, and pensions, that are still being paid to IDPs in Serbia in dinars, are inaccessible to IDPs in Montenegro without travelling to Serbia. Similarly, while the Montenegrin Health Insurance Fund covers primary health care for IDPs, payments between the health insurance funds of Serbia and Montenegro have stopped.

30. The educational system is in dire straits after years of limited investment in this sector. RAE IDP children, in particular, lack proper clothing and school materials that have to be provided at the parents' expense. Lack of familiarity with the Serb language only adds to the obstacles faced by RAE children for their success in the school.

31. While international efforts have begun to be put in place to improve the situation, it will take some time before these measures filter down to the population. The return of people to a situation of internal displacement should be avoided at all costs, as it can only add to the challenges faced by FRY in addressing the psychosocial hardships and lack of socio-economic opportunities of hundreds of thousand refugees and IDPs.

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⁴ OCHA Humanitarian Situation Report January 2002.